

EXHIBIT F

This Transcript Contains Confidential Material

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS) 03-MDL-1570 (GBD) (SN)
ON SEPTEMBER 11, 2001)
)

— — —

Tuesday, July 13, 2021

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THIS TRANSCRIPT CONTAINS
CONFIDENTIAL MATERIAL

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Remote video-recorded deposition of JONATHAN M.
WINER, held at the location of the witness,
commencing at 10:04 a.m., on the above date, before
Debra A. Dibble, Certified Court Reporter,
Registered Diplomate Reporter, Certified Realtime
Captioner, Certified Realtime Reporter and Notary
Public.

— — —

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1 A. 135 pages is correct.

2 Q. And is that correct that your rebuttal
3 was 66 pages?

4 A. Yes.

5 Q. Do you agree with me that this is a
6 massive case, correct?

7 A. Yes.

8 Q. With massive documents; correct?

9 A. Yes.

10 Q. Massive documents produced?

11 A. Yes.

12 Q. This is for the finder to evaluate claims
13 and defense in this case. Do you agree with me?

14 A. Yes.

15 Q. Did you choose which document to review
16 and which document not to review?

17 A. Yes.

18 Q. Did the lawyers select documents for you
19 to review?

20 A. Yes and no.

21 Q. What do you mean by yes and no?

22 A. I was given an initial group of
23 documents. After going through those documents, I
24 asked for more documents. And that took place a
25 couple of times.

1 Q. And that's from the time, I assume, that
2 you start reviewing the documents to the time that
3 you issued your final report; correct?

4 MR. HAEFELE: Objection to form.

5 A. Yes.

6 Q. (BY MR. MOHAMMEDI) Were any documents in
7 Arabic?

8 A. There are no documents in Arabic that I
9 have read. I don't read Arabic.

10 Q. Were there any documents translate -- I'm
11 sorry.

12 A. There were documents in Arabic that were
13 translated into English in which I had both English
14 and Arabic language next to it. I am not able to
15 determine whether the English was authentic to the
16 Arabic, but they were still represented.

17 Q. Which documents did plaintiff give you to
18 review?

19 MR. HAEFELE: Objection.

20 A. Please repeat --

21 Q. (BY MR. MOHAMMEDI) What documents did
22 plaintiffs' lawyers give to you review?

23 A. The documents listed in my reliance
24 report.

25 Q. So it is fair to assume that all the

1 document that your reliance materials are the ones
2 that plaintiff gave you to review?

3 MR. HAEFELE: Objection to form,
4 foundation.

5 A. It's my understanding that the materials
6 in the reliance report were the materials that were
7 provided to me, that's correct, plus additional
8 materials that I found.

9 Q. (BY MR. MOHAMMEDI) And that includes the
10 materials that were produced in this litigation; is
11 that correct?

12 A. It does include some materials produced
13 in this litigation, yes.

14 Q. And do you know how many materials were
15 produced in this litigation?

16 A. I do not.

17 Q. So you have no idea how many documents
18 were produced in this litigation?

19 A. It's not something that I have an opinion
20 on it.

21 Q. Okay.

22 A. I can make no representations of fact as
23 to how many documents have been produced in the
24 litigation.

25 Q. Did you ask for that?

1 A. I asked for -- to receive as much as
2 possible given the amount of time that there was for
3 me to prepare my report.

4 Q. So you specifically asked to be given --
5 that plaintiffs' lawyers will give you as many
6 documents as possible to review to render your
7 opinion?

8 MR. HAEFELE: Objection to form,
9 misstates testimony.

10 A. What I have stated in this deposition and
11 am happy to restate is that I was given a lot of
12 material initially. After spending some extensive
13 number of hours on that material, I requested
14 additional material of various kinds. I did that on
15 more than one occasion. I don't remember how many
16 occasions.

17 In addition, I asked for some academic
18 materials that I needed to get quickly, that I
19 understood the firm might have, which they were able
20 to provide me. An example of that might be a report
21 by Mr. Benthall or Mr. Hegghammer. Merely as
22 examples. I don't recollect precisely which reports
23 those were, because once I had them, how I acquired
24 them was not particularly important. Their
25 authenticity and accuracy, of course, was, but in an

1 citations. And in addition, they listed the
2 material they provided me.

3 Q. Okay. Just as a follow-up question, you
4 are not aware that -- how many pages the Assembly of
5 Muslim Youth produced in this case, correct?

6 A. I do not know the number of pages that
7 any entity produced in this case.

8 Q. Let me tell you how many pages Mr. -- I'm
9 sorry, what the Assembly of Muslim Youth has
10 produced. It's 1.264621 pages.

11 And that's WAMY Saudi Arabia.

12 And WAMY International produced 15,202
13 pages of documents in this case.

14 Have you seen any of these?

15 MR. HAEFELE: Objection, form,
16 foundation, misleading.

17 A. I've seen some of them. I've seen some
18 audits. I have requested every bit of audit
19 material.

20 Q. (BY MR. MOHAMMEDI) But audits were not
21 listed in the affirmative report, were they?

22 A. They were not. I was not provided those
23 at the time. I asked for them, and I got them
24 later. And when I reviewed them, I then provided my
25 analysis. But I wanted them from the beginning. I

1 wanted an audit and I did request them.

2 Q. Is it fair to say that you did not review
3 the audit before you produced your affirmative
4 report; correct?

5 A. My report itself says I did not.

6 Q. Okay. And are you aware that Muslim
7 World League produced over 700,000 pages of
8 documents?

9 MR. HAEFELE: Objection to form.

10 A. I have stated and now repeat that I am
11 not aware of the amount of documents produced by
12 anyone involved in the case in terms of the numbers.

13 Q. (BY MR. MOHAMMEDI) And it's fair to say
14 that your affirmative report did not really rely
15 mostly on the documents produced in this case;
16 correct?

17 MR. HAEFELE: Objection to form.

18 A. I can't respond to that question with a
19 yes or a no.

20 Q. (BY MR. MOHAMMEDI) No, you can.

21 A. It relied on the material that I've
22 listed. I looked at every audit that I was able to
23 get my hands on and the financial records associated
24 with them. And I went through depositions of the
25 officers of the defendants, for example, and sought

1 to consider as much information as I could within
2 the time available.

3 Q. Yeah. It is fair to say it's over
4 2 million pages of documents between -- let's say
5 World Assembly Muslim Youth and Muslim World League,
6 we will call it WAMY and MWL. So you have not
7 reviewed the over 2 million pages of documents that
8 were produced by WAMY and Muslim World League;
9 correct?

10 MR. HAEFELE: Objection to form.

11 A. It is correct that I have not reviewed
12 2 million documents from anyone at any time in my
13 life.

14 Q. (BY MR. MOHAMMEDI) I will direct you to
15 page 6 and page 26 of your reliance material.

16 If -- there is the highlighted version
17 there. If you see Exhibits 267, which was actually
18 an exhibit to a deposition of WAMY, and there was a
19 document there, says, WAMYSA0276804. Do you see
20 that?

21 A. Yes.

22 Q. That's one of your reliance material;
23 correct?

24 A. It's material that was available to me,
25 which I considered. I considered as much as I could

1 of the material that was provided within the time
2 that I had.

3 Q. But my question is, is this the one that
4 you relied on?

5 A. You would have to show me the document,
6 sir.

7 Q. No, I don't need to show you the
8 document.

9 A. Well, then I can't tell you to what
10 extent I considered it.

11 Q. I am relying on the reliance material
12 that you produced and you said that those are the
13 documents you relied on when you produced your
14 report; correct?

15 MR. HAEFELE: Objection, badgering.

16 A. Those are the documents that were made
17 available to me by the law firm and which I did my
18 best to consider. I considered as much as I
19 possibly could within the time allotted, within the
20 time that I had to get the report done.

21 Q. (BY MR. MOHAMMEDI) Is this reliance
22 material accurate?

23 A. The material that was available to me,
24 it's accurate, yes.

25 Did I go through as much of it as I

1 Q. (BY MR. MOHAMMEDI) Did they submit
2 reliance material, did they?

3 John Marks would submit his reliance
4 material. Did you --

5 MR. HAEFELE: Object to the form.

6 Q. (BY MR. MOHAMMEDI) Did you review the
7 reliance materials that John Marks submitted in his
8 report?

9 MR. HAEFELE: Objection to form,
10 foundation.

11 A. I reviewed all the audit material that
12 was made available to me, and my conclusions about
13 that audit material were provided in my rebuttal
14 report.

15 Q. (BY MR. MOHAMMEDI) And is that fair to
16 say, based on his statement in his report?

17 A. I looked at the statements in his report.
18 I looked at the audit material. I asked if there
19 was any additional audit material, and I expressed
20 my concern that there was a lot of material that was
21 still missing.

22 Q. Okay. Which questions relating to the
23 involvement of charities in international terrorism
24 finance in the period leading up to 9/11 attacks
25 were you asked to opine on?

1 So is it fair, you have not been a
2 faculty of any academic institution. Is that fair
3 to say?

4 A. I have not been a resident faculty member
5 of any institution. I am a nonresident scholar at
6 this time and have been since 2017 at the Middle
7 East Institute.

8 Q. Are you a social scientist?

9 A. I am an attorney. I did study some
10 social science in law school.

11 Q. But you are not a social scientist?

12 A. I am not a Ph.D.

13 Q. Are you a certified public accountant?

14 A. No.

15 Q. Are you a forensic accountant?

16 A. No.

17 Q. Are you certified fraud examiner?

18 A. No.

19 Q. Are you or have you been a member of the
20 law enforcement?

21 A. Have I been a member of law enforcement?

22 Q. Law enforcement.

23 A. I worked as a prosecutor at the beginning
24 of my career.

25 Q. But that's the -- that's the experience

1 that related to law enforcement that you are talking
2 about, right?

3 A. No, that's incorrect.

4 Q. Okay. Go ahead.

5 A. For six years I was the lead person at
6 the United States Department of State, addressing
7 international law enforcement issues. In that
8 period I worked with U.S. law enforcement on a daily
9 basis.

10 Q. Were you yourself a member of law
11 enforcement?

12 MR. HAEFELE: Objection to form.

13 A. Did I have the power to prosecute? I did
14 not. Did I have the power to arrest? I did not. I
15 was not a prosecutor or a police officer. Except
16 early on when I did a -- when I did a money
17 laundering prosecution.

18 Q. (BY MR. MOHAMMEDI) Have you ever worked
19 as an intelligence service analyst or agent?

20 A. I have worked under contract for a U.S.
21 government analytic agency for many, many years,
22 providing both intelligence and analysis to that
23 agency, as disclosed in my CV.

24 Q. You testified that you are an expert in
25 history of al-Qaeda; correct?

1 A. I would have to look at precisely what
2 their CV said.

3 Q. Are you an expert in history of al-Qaeda?

4 A. What is that? Omar, I didn't hear you.

5 Q. Al-Qaeda. Are you an expert on history
6 of al-Qaeda?

7 A. In certain context, yes. I know enough
8 about its activities Afghanistan, Bosnia, Chechnya,
9 Sudan, Southeast Asia, and elsewhere to have
10 familiarity with its activities.

11 Q. How do you know that?

12 A. I have some expertise in the area. I am
13 not an Arabic reader, so there are things that are
14 in Arabic, I'm sure, that would allow me to know
15 more.

16 Q. How do you -- how did you gain that
17 expertise?

18 A. When the United States government first
19 became concerned about al-Qaeda in the 1990s, I was
20 meeting regularly with Richard Clarke at the NSC who
21 is the United States government's counterterrorism
22 czar at the time. And I was dealing with the
23 interrelated issue of international crime, and in
24 particular international financial crime. And the
25 two are inexorably intermingled, and the

1 United States was seeking that period of time, both
2 to understand these phenomena and to begin to build
3 capacity to combat them. And I had regular contact
4 with Mr. Clarke and was working for him and with
5 him, such as with Michael Sheehan, for example, and
6 Rand Beers on these issues in the late 1990s and
7 became aware of his concern.

8 Q. Okay. And is it fair to say those were
9 within the policy scope?

10 MR. HAEFELE: Objection, form.

11 A. I'm not sure I understand the question.

12 Q. (BY MR. MOHAMMEDI) Were you dealing with
13 this matter from a policy perspective?

14 A. Yes, but I also was trying to -- it was
15 my job also to communicate to other countries about
16 what we needed them to do and what capacities we
17 needed. I did not do that, however, regarding
18 al-Qaeda myself. I was aware that others were, but
19 I was not.

20 Q. You were not. Okay. Have you ever
21 studied terrorism in an academic setting?

22 A. I couldn't understand the question.

23 Q. Have you ever studied terrorism in any
24 academic setting?

25 A. I have been asked to write about

1 MR. HAEFELE: Let him answer the
2 question.

3 MR. MOHAMMEDI: We take a five-minute
4 break.

5 MR. HAEFELE: We'll take a break.
6 That's fine. Omar, listen to what I'm saying.
7 Listen to what I'm -- Omar, just listen to
8 what I'm saying. I don't want to fight with
9 you.

10 MR. MOHAMMEDI: Let me conduct my
11 deposition, Robert.

12 THE VIDEOGRAPHER: We're going to go
13 off the record at 11:09 a.m.

14 (Recess taken, 11:09 a.m. to
15 11:22 a.m. EDT)

16 THE VIDEOGRAPHER: We are back on
17 record at 11:22 a.m.

18 Q. (BY MR. MOHAMMEDI) Mr. Winer, have you
19 ever interviewed members of al-Qaeda?

20 A. No.

21 Q. Do you have a field experience -- when
22 I'm saying field experience -- before 9/11 including
23 Afghanistan, Chechnya, Bosnia?

24 A. Not in those countries, no.

25 Q. Are you an expert on terrorism -- or

1 I am an expert in financial crime and in
2 the question of when inadequate disclosure creates
3 opportunities for the abuse of charities. And I've
4 been a proponent for many years of stronger
5 reporting standards for charities, because of that
6 concern, and testified before Congress some
7 substantial number of years ago, I think in the 00s,
8 on that issue.

9 Q. And do you do your own financial analysis
10 of this reporting or do you use accountant or
11 forensic accountant for that purpose?

12 A. It depends on the context in the case. I
13 have been involved in a matter in which the
14 attorneys involved in the matter retained an
15 accounting firm to do the forensic accounting work,
16 which we then assessed as -- in connection with an
17 OFAC matter. And part of providing the terms of
18 reference for the accounting firm, what we needed,
19 what we needed to analyze and understand.

20 So for that purpose, I was an expert in
21 order to assess what the U.S. government would
22 require to provide certainty, enough certainty that
23 there was no risk of terrorist findings to enable a
24 person or entity to be delisted. When I was
25 investigating BCCI in the 1980s, I spent extensive

1 A. I don't know. It would --

2 Q. But there was definitely before --

3 A. Somewhere between the period of 1989 and
4 1994.

5 Q. '94. Okay.

6 And you said that you relied on the
7 forensic accountant and -- to run your expertise as
8 far as assessment; correct?

9 MR. HAEFELE: Objection to form.

10 A. An attorney group that I was part of
11 worked -- chose to retain a forensic accountant firm
12 to assist us in reconstructing a record that would
13 enable us to assess terrorist finance vulnerability
14 and what additional practices would need to be put
15 into place to correct those vulnerabilities in that
16 particular case.

17 Q. (BY MR. MOHAMMEDI) Was the case about
18 terrorism finance?

19 A. Yes.

20 Q. Okay. And what type of terrorist finance
21 are you talking about?

22 A. I'm sorry, I don't understand the
23 question.

24 Q. It was a Middle Eastern finance or was
25 it --

1 A. Yes.

2 Q. -- related to where?

3 A. Yes.

4 Q. Are you an expert on Islam?

5 A. I am not an expert on the doc --
6 religious doctrine of any kind, except to the extent
7 that it involves the political impact of different
8 types of interpretations of religion when a religion
9 is politicized into a political movement, where I
10 have expertise.

11 So when you have a combination of foreign
12 policy, security, and religion, that's an area that
13 I have devoted some extensive work on over a long
14 period of time.

15 And that is an area of expertise, yes.
16 In the Middle East bureau, where I was from 2013 to
17 2017, we were constantly dealing with -- within the
18 bureau and I was personally -- the competing agendas
19 of political Islam and various strands and strains
20 of political Islam, including that in the Islamic
21 state and al-Qaeda and other groups like Ansar
22 al-Sharia. And that competing with -- Arab
23 nationalism competing with states that would be
24 modern unitarian states, competing with warlord and
25 different types of rule in which pan-Islamic rule

1 was one of the strains, political strains that had
2 all kinds of consequences for terrorism and
3 terrorist risk, and having to understand the various
4 strands of those was critically important to my
5 work.

6 In that period in particular, while I was
7 involved.

8 Q. (BY MR. MOHAMMEDI) But you are not an
9 expert on Islamic terms of concept from a religious
10 standpoint, are you?

11 MR. HAEFELE: Objection, form. Asked
12 and answered.

13 A. I am not really -- I'm not willing to
14 adopt your question as an answer. I'm happy to say
15 again what my expertise is.

16 Q. (BY MR. MOHAMMEDI) Are you a religious
17 expert? "Yes" or "no."

18 MR. HAEFELE: Objection to form.

19 Q. (BY MR. MOHAMMEDI) Are you a religious
20 expert?

21 MR. HAEFELE: Still objection to
22 form. It's the same question and he's
23 answered.

24 A. I developed expertise in the political --

25 Q. (BY MR. MOHAMMEDI) I just say, are you a

1 religious expert? I mean, it's -- you already
2 explained that. I'm just asking you are you a
3 religious expert?

4 MR. HAEFELE: Omar, you keep asking
5 and repeating the same answer he gave.

6 MR. MOHAMMEDI: He already answer a
7 question that was not really what I was
8 asking. I'm just asking if you are a
9 religious expert.

10 A. I can answer it this way: My father was
11 a medical researcher in cardiovascular disease and
12 learned some fundamental principles in connection
13 with the angiotensin system. He was an expert in
14 that area. He was also a doctor. He was not an
15 expert in glioblastoma. So if you're asking
16 somebody are you an expert in medicine, well, yes,
17 my father was a medical expert, a medical expert
18 with certain areas of expertise.

19 I have certain areas of expertise. Am I
20 a religious expert who spent my life on Islam,
21 Christianity, Judaism, Buddhism, Bahaism, Sufism,
22 the difference between Sunni and Shia, I have not
23 spent my lifetime on it, although I could give you
24 the basics of the Sunni/Shia split if it was of help
25 to you. I could discuss when Wahhabism originated

1 and when the modern Salafi movement originated, and
2 the fact that some people think its antecedents go
3 back earlier and foundations for it earlier. I can
4 talk about the relationship between Egypt and
5 Saudi Arabia in competing for religious dominance.
6 But does that make me an expert in religion? No.

7 MR. GOETZ: Objection, nonresponsive,
8 move to strike.

9 Q. (BY MR. MOHAMMEDI) Do you hold yourself
10 as a religious expert in this case?

11 MR. HAEFELE: Objection to form.

12 MR. MOHAMMEDI: Just answer this
13 "yes" or "no."

14 MR. HAEFELE: Objection, you can't
15 demand a "yes" or "no" answer.

16 MR. MOHAMMEDI: Robert, you can stop
17 interjecting.

18 THE WITNESS: I believe I've answered
19 the question.

20 Q. (BY MR. MOHAMMEDI) Are you an expert on
21 religion in this case?

22 MR. HAEFELE: Objection to form,
23 asked and answered multiple times.

24 A. I am expert on the political aspects of
25 Islam and how it played out in the region in the

1 1980s, 1990s, and 00s.

2 Q. Are you an expert in Islamic terms and
3 concepts?

4 A. I know about a few of them. Not all of
5 them.

6 Q. Are you an expert --

7 Knowing is not an expert. Do you agree
8 with me?

9 MR. HAEFELE: Objection to form,
10 argumentative.

11 A. I think it's really up to others to
12 determine the scope of my expertise. I felt
13 comfortable and continue to feel comfortable
14 answering questions that were posed to me in my
15 expert report.

16 Q. (BY MR. MOHAMMEDI) Okay. Then we go to
17 the next point.

18 (Reporter clarification.)

19 Q. (BY MR. MOHAMMEDI) Are you an expert on
20 the Kingdom of Saudi Arabia history?

21 A. I know a fair amount about the Kingdom of
22 Saudi Arabia. I dealt with issues relating to it
23 every day in my last work, the state departments. I
24 was not personally responsible for that
25 relationship, but I was in meetings each morning

1 when I was in Washington to discuss the ins and outs
2 of that relationship.

3 And I'm familiar with the modern history
4 of Saudi Arabia.

5 Q. Have you ever been posted in
6 Saudi Arabia?

7 A. No.

8 Q. Have you ever been posted anywhere in the
9 Middle East pre-9/11 as U.S. representative?

10 A. I'm sorry, please repeat the question.

11 Q. Have you ever been posted anywhere in the
12 Middle East pre-9-11 as a U.S. representative?

13 A. I've undertaken missions in a variety of
14 places in the Middle East. I have been posted in
15 Washington. I've always been -- I've lived in
16 Washington since 1985.

17 Q. If we go to you -- as Exhibit 2, your CV
18 and the experience and qualifications.

19 MR. HAEFELE: Just for the record,
20 it's not Exhibit 2.

21 MR. MOHAMMEDI: I'm sorry, I'm sorry.
22 Which exhibit, that CV and qualification.

23 MR. HAEFELE: 896.

24 Wait, do you want his CV or his
25 expert report?

1 the time?

2 A. I was in law school. I was not -- did
3 not have a law degree at that time.

4 Q. And what did you do?

5 MR. HAEFELE: Objection to form.

6 A. I worked with the -- John Sharkey
7 comptroller of the currency and Tom Reardon of the
8 FBI in preparing materials for a trial involving
9 money laundering activity and fraud in the
10 Caribbean. It was a cross-border crime, which
11 introduced me to a number of concepts in money
12 laundering and fraud. That's how I began my
13 involvement in the skill.

14 Q. (BY MR. MOHAMMEDI) And you worked with
15 Financial Action Task Force; correct?

16 A. Yes.

17 Q. Which is the Financial Action Task Force?

18 A. What is it? Is that the question?

19 Q. Yes.

20 A. The Financial Action Task Force was
21 created in the meeting of the G7, I believe in 1989,
22 in response in part to legislation that I worked on
23 with Senator Kerry requiring the United States to
24 negotiate what were then called Kerry agreements so
25 that U.S. anti-money laundering laws, which were

1 still quite basic, would be adopted in other
2 countries to avoid regulatory enforcement
3 arbitration.

4 And the Bush administration did not want
5 to negotiate bilateral agreements in that area, and
6 what evolved was instead the Financial Action Task
7 Force by a decision of the G7 in 1989.

8 Q. And at the time of its creation, did
9 financial task force have any policies to combat
10 terrorism financing in particular?

11 A. No.

12 Q. And the role was mostly related to policy
13 matters; correct?

14 A. No.

15 Q. What is relate -- what was it related to?

16 A. It was a mechanism to develop
17 international money laundering standards, which
18 countries would then put into place to provide a
19 foundation to combat money laundering and all forms
20 of financial crime, essentially because money
21 laundering involves disguising the actual uses of
22 funds. So it applies to a very great range of
23 felonies, of serious crimes. And the idea was to
24 have it -- initially it was to combat drug
25 trafficking only, but by 1996 it became modified

1 to -- a system to combat all forms of serious crime.

2 Q. Okay. And as a deputy assistant
3 secretary of state for international law in 1984, on
4 September 11, 1996 you testified before the House
5 International Relations Committee; correct?

6 A. I don't recollect the date.

7 MR. MOHAMMEDI: Can you bring up
8 Exhibit 6, which is 902, I believe. Right?

9 (Winer Deposition Exhibit 902, Cheap
10 Flights to Nigeria, was marked for
11 identification.)

12 TRIAL TECHNICIAN: That might take a
13 second. That didn't come through --

14 MR. MOHAMMEDI: Can we go off record
15 until you figure this out?

16 THE VIDEOGRAPHER: Going off the
17 record. 11:50 a.m.

18 (Recess taken, 11:50 a.m. to
19 11:51 a.m. EDT)

20 THE VIDEOGRAPHER: Back on the
21 record. The time is 11:51 a.m.

22 Q. (BY MR. MOHAMMEDI) So in page 1 of that
23 document, which is highlighted for you, in
24 paragraph 3, is you -- you refer to your bureau's
25 responsibility was to protect American citizens and

1 American businessmen from threats posed by
2 international narcotics trafficking and crime;
3 correct?

4 MR. HAEFELE: Omar, can you tell us
5 what we're looking at?

6 MR. MOHAMMEDI: I just mentioned it.

7 MR. HAEFELE: I know, but can you
8 tell us --

9 MR. MOHAMMEDI: It's here.

10 MR. HAEFELE: What is the document?
11 I know you're highlighting something from a
12 document; I don't know what the document is.

13 MR. MOHAMMEDI: I understand. At
14 paragraph 3, the highlighted version of
15 paragraph 3.

16 MR. HAEFELE: Of what -- what is the
17 document you're highlighting?

18 MR. MOHAMMEDI: Okay, the document I
19 mention is a Congressional testimony in 1996.

20 MR. HAEFELE: Thank you. I must have
21 missed that. I apologize.

22 Q. (BY MR. MOHAMMEDI) Do you read that,
23 Mr. Winer?

24 A. Yes. Would you like me to read it?

25 Q. I just read it to you. You agree with

1 that; right?

2 A. Yes.

3 Q. And your responsibility was for policy;
4 correct?

5 A. That was part of my responsibility, yes.

6 Q. And there was nothing referencing to
7 terrorism or terrorism financing, was there?

8 A. That's correct.

9 MR. HAEFELE: Objection to the form.

10 A. But let me simply --

11 MR. MOHAMMEDI: I don't have any
12 question pending.

13 MR. HAEFELE: Let him finish the
14 answer, Omar.

15 A. At my bureau, given our responsibility,
16 policy, and programs, the programs part got very
17 operational. So it's a mistake and inaccurate to
18 state that it's limited to policy only.

19 Q. (BY MR. MOHAMMEDI) But it's a relate --
20 it's not related to anything about terrorism;
21 correct?

22 A. That's correct.

23 MR. HAEFELE: Objection to form.

24 A. That statement is not related to anything
25 about terrorism. The hearing was on Nigerian crime.

1 kind. Money laundering of every kind.

2 And fraud and money laundering including
3 terrorism. As mentioned, I first encountered the
4 terrorism problem in my work for the subcommittee on
5 Terrorism, Narcotics, and International Operations,
6 organizations, I believe the subcommittee was
7 called, in the years I was working for then-Senator
8 John Kerry.

9 That expertise was the foundation for my
10 understanding on terrorist finance. They also
11 worked closely with Richard Clarke, who was the lead
12 person in the U.S. government during the Clinton
13 administration for dealing with terrorism, and
14 chatted with him about it in the course of my work,
15 which was directly adjacent and intersected with the
16 work that was being undertaken on terrorism. My
17 involvement was limited to an understanding that we
18 needed to take on terrorist finance at the same time
19 and that we had a growing problem associated with
20 terrorist finance. This emerged fairly rather late
21 in my time at the Department of State, '98, '99,
22 with particular focus after the terrorist bombings
23 of our embassies, which got everybody's attention at
24 the State Department and caused people to broaden
25 and deepen their focus on these issues.

1 During this period of time, Mr. Clarke
2 was quite frustrated with the response of the U.S.
3 government to what he perceived as a tremendous
4 threat. I was one of the people in the functional
5 bureaus who he could talk with about the nature of
6 the threat without getting push-back.

7 The regional bureaus very often would
8 push back when you were asking countries to do more.
9 And the Middle East bureau, in this period of time,
10 would push back sometimes.

11 And so I got exposed to it in that
12 period. When I went to Alston & Bird, after 9/11, I
13 was reached out to by the United States Senate, by
14 ABC News, by academic institutions, and participated
15 in a number of seminars, conferences, and so on, on
16 terrorism finance; and used that period of time to
17 deepen my knowledge and research into the
18 phenomenon. I also was retained by the
19 United States government from a period of about 2000
20 to a period of about 2008 to provide regular reports
21 on countries relating to money laundering, terrorist
22 finance, corruption, these countries'
23 vulnerabilities, and these companies' capacities to
24 deal with them.

25 And so my study continued while I was

1 under contract to the United States government
2 throughout that period.

3 Q. (BY MR. MOHAMMEDI) And that was from
4 1999-2008; correct?

5 A. No, I believe it was 2000 to 2008, not
6 1999.

7 Q. 2000. Because I think it says 1999.

8 A. I was at Alston & Bird from 19 -- the end
9 of 1999 to 2008, but my work in this territory did
10 not take place in 1999. I was there only two months
11 in 1999, and that work began later.

12 Q. And, Mr. Winer, what percentage of your
13 time would you estimate that was spent in counseling
14 regarding terrorism finance for that period of time,
15 which is from 2000-2008?

16 A. Could you please repeat the question.

17 Q. What percentage of your time would you
18 estimate was spent on counseling regarding terrorism
19 finance from 2000, 2008?

20 A. It's difficult for me to put a percentage
21 on something I've never put a percentage on. I can
22 tell you that I had a contract with the
23 United States government, a series of contracts,
24 which --

25 Q. How many? I'm sorry. How many

1 contracts?

2 A. I can't tell you how many. I can tell
3 you how many years. They began in 2000 and
4 continued through 2008. In which I was providing
5 work regularly to the United States government
6 throughout that period of time on this set of
7 issues.

8 Q. And when you say, when you talk about
9 2000, 2008, and you talk about your -- the contract,
10 are those the clients that you were advising during
11 that time?

12 A. I had private sector clients I provided
13 advice to in connection with OFAC, and I had the
14 government as a client providing analytic --
15 academic or analytic work on country studies,
16 principally, though it was not only country studies,
17 of vulnerability to money laundering, vulnerability
18 to terrorist finance. Their capacities to combat
19 these phenomena. And what measures of performance
20 might look like if they built greater capacity.

21 Q. And did you represent any charity itself
22 in this -- during that time period?

23 A. Yes, as I've mentioned, I did.

24 Q. And was there --

25 A. As I've stated, I have, yes.

1 Q. And those are foreign charities or U.S.
2 charities?

3 A. Both.

4 Q. And the foreign charities, which area
5 of --

6 A. Middle East --

7 Q. -- the world that you were representing?

8 A. Middle East.

9 Q. Middle East mostly?

10 A. I can't -- you asked -- I talk about two
11 cases involving OFAC. There's a third case which
12 did not involve that, which involved a U.S. domestic
13 charity which had other issues associated with
14 financial documentation of its activities and
15 investigated enforcement matters where I was
16 providing advice.

17 Q. Did you represent any other government
18 other than the U.S. government?

19 A. Let me think of what I did when. Yes,
20 while I was at Alston & Bird, if that's the period
21 we're talking about, I represented the government of
22 Indonesia for a period.

23 Q. Indonesia. Any other government?

24 A. Later, I represented the government of
25 Malaysia.

1 Q. If you can just list them for me, I'd
2 really appreciate that, if you have the list.

3 A. I represented the governments of
4 Indonesia. I don't know the exact year. I
5 represented the government of Malaysia in roughly
6 2009 or '10.

7 But again, I don't have these accurate.
8 Indonesia would have been roughly 2005 or '6, but I
9 don't recollect.

10 Q. Were any of those governments you
11 represent before 9/11?

12 A. No.

13 Q. It was after 9/11?

14 A. Yes. And in Indonesia --

15 Let me wait until you ask a question.

16 Q. What type of representation you had for
17 Indonesia and Malaysia in your practice?

18 A. Generally both -- both countries wanted
19 to understand the U.S. government's major issues
20 with them and to think about how to enhance their
21 relationship with the United States. In connection
22 with Indonesia, we provided legal advice on certain
23 matters. And beyond that, I really can't get into
24 that. Though separately I can say that I provided
25 an analysis or critique of Indonesia's anti-money

1 laundering and antiterrorist laws and made
2 recommendations on them. But that wasn't -- that
3 was a separate engagement that I did pro bono in
4 addition to the formal engagement.

5 Q. Mr. Winer, every time you respond, you
6 say money laundering and terrorism finance. Is it
7 that every time you dealt with money laundering you
8 dealt with the terrorism finances as well?

9 A. I can't say every time, but after 9/11,
10 in the work that I did for the U.S. government, it
11 was, if not always, it was almost always.

12 As I said a few minutes ago, there were a
13 few reports that I did for the United States
14 government which were outside of the country
15 analysis framework. The 100-plus reports that I
16 did -- and it might have been 120, I don't remember
17 the exact number. It tended to be about 20 a year,
18 to the best of my memory -- were generally country
19 reports, but they also asked me to look at things
20 like global financial risk from derivatives, the
21 money laundering and crime risk of internet
22 gambling. So occasionally there would be specialist
23 topics. But the country reports always included,
24 the best of my memory, a charity finance department.

25 Q. And were you responsible to get with

1 Q. So you're saying because it was not
2 relevant, even though it's banking standard,
3 terrorism finance was not relevant?

4 A. Not to this particular case. It was
5 about a Ponzi scheme and there was no terrorist
6 finance involved.

7 Q. Okay. In -- yeah.

8 In exhibit, I think 896. Page 151, 152.

9 You referred that you teach terrorism
10 finance to CIA analyst at Kent School from
11 2002-2013; correct?

12 A. I don't think I said 2013. If that's --
13 if it says it anywhere, that's not -- I don't think
14 that's -- actually, let me think about that. Yes, I
15 did. I taught all the way until I went back to...

16 That's correct. Yep.

17 Q. How many courses on terrorism finance did
18 you teach to CIA analysts?

19 A. I don't remember.

20 Q. What was the duration of -- I mean, how
21 many times a -- I would say what was the frequency
22 of those lectures?

23 MR. HAEFELE: Objection to the form.

24 A. There were typically four a year, and
25 they covered corruption, money laundering, terrorist

1 finance, that range of topics.

2 Q. (BY MR. MOHAMMEDI) Did you have any
3 syllabus?

4 A. I did proposals to them and prepared
5 presentations and that type of thing.

6 Q. So there was no syllabus for your
7 lectures?

8 A. I don't understand the word syllabus in
9 this connection.

10 Q. I teach in law school and whenever I
11 teach -- I go to teach, I'll have syllabus for the
12 duration of time during I teach, and people who
13 teach in the -- I mean, obviously everyone who
14 teach, they have syllabus, if it's a recognized
15 and -- a teaching position?

16 MR. HAEFELE: Objection to the form.

17 A. I didn't have a syllabus.

18 Q. (BY MR. MOHAMMEDI) You didn't have a
19 syllabus. Okay.

20 Those courses that you were teaching,
21 were they in any way related to 9/11?

22 MR. HAEFELE: Object to the form.

23 A. Yes.

24 Q. (BY MR. MOHAMMEDI) Can you give me
25 examples?

This transcript contains confidential material

1 A. Sure. I focused on Pakistan as a case
2 study of the ways in which corruption played out in
3 having very, very poor controls on the movement of
4 money, and the terrorist problem, winding up being a
5 destabilizing factor in India -- or in Pakistan over
6 many, many years. That's the main thing that I
7 remember about it. The evolution of Pakistani
8 politics, including the impact of 9/11, which
9 included the odd moment when money moved in, a
10 substantial amounts of payments moved in after there
11 was a crackdown, moved into the formal banking
12 system. I remember that fact, for example, as being
13 part of the discussion.

14 And the need to understand integrity in
15 systems versus corruption in systems, in the banking
16 system, in the oversight banking mechanisms
17 generally. That's my memory.

18 Q. I see. If we can go to Exhibit 8.

19 (Winer Deposition Exhibit 904,
20 Jonathan M. Winer resume, was marked
21 for identification.)

22 Q. (BY MR. MOHAMMEDI) This is an exhibit of
23 your resumé submitted to 2012 court filing in Gill
24 versus Arab Bank.

25 Is that correct?

1 A. Mm-hmm.

2 Q. And you were hired as an expert in that
3 case as well; correct?

4 A. Sure. Mm-hmm.

5 Q. On page 1, which you have, in the third
6 sentence of the first paragraph, your 2000 resumé,
7 you are talking about your experience as deputy U.S.
8 assistant secretary of state law enforcement;
9 correct?

10 A. Yes.

11 Q. You stated you serve as a principal
12 policy-maker, as a principal policy-maker focused on
13 a daily basis on international organized crime and
14 financial crimes for the State Department, including
15 money laundering, the systems used for terrorist
16 finance, and mutual legal assistance and
17 international cooperation against transnational
18 threats such as crimes and terrorism; correct?

19 A. That's correct.

20 Q. In this resumé that you submitted in 2019
21 at page 36 -- 136, sorry. 896 -- Exhibit 896,
22 page 136. You kept the same wording; right? Except
23 you changed the last phrase to handled oversight of
24 U.S. law enforcement relation with many nations;
25 correct?

1 A. Yes.

2 Q. How did the same experience come from
3 hours of the policy maker focusing on mutual legal
4 assistance and international cooperation to I
5 handled oversight of law enforcement relations?

6 A. Both are true.

7 Q. But one was -- resumé was submitted in
8 different cases, two different thing -- two
9 different variation; correct?

10 A. Yes.

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) Why -- why are there
13 two different variations of your resumé?

14 A. Well, probably because I thought of the
15 fact in connection with this that I was also doing
16 oversight of U.S. law enforcement relations. Is
17 this one from the Canada case? Where is this one
18 from? Is this my current one?

19 Q. This is not Canada case. This is the
20 Gill versus Arab Bank.

21 A. This one -- which one? I have a few --

22 Q. The 2012 I showed you was the Gill versus
23 Arab Bank.

24 A. Yeah. So I've also handled oversight of
25 U.S. law enforcement relations with many nations.

1 It's a fact. It's true.

2 Q. So this -- you said -- just before you
3 said, you said just because you were dealing with
4 this issue here, that's why you added that. Is that
5 correct? That was your testimony right before I
6 asked you a question.

7 A. No, I said I added it because it's also
8 true. I don't recollect, to be honest, why I added
9 it. I probably just wanted it. But it's accurate.
10 I can go into detail if you'd like detail.

11 Q. I'm just asking questions specifically
12 about that. I'm not asking for detail. Thank you.

13 In your 2019 resume which you submitted
14 in this case, the heading reads: Experience in U.S.
15 Foreign Policy Sanctions and Terrorist Finance
16 Process; correct?

17 A. Yes.

18 Q. And that's page 137.

19 In your 2012 resumé you wrote, during my
20 six-year service as -- and let's go to page 2 of
21 that exhibit.

22 A. Uh-huh.

23 Q. Exhibit 8, page 904.

24 I'm sorry, Exhibit 904 -- Exhibit 904,
25 which is -- which we just have now, at page 2.

1 the NSC to get the whole U.S. government going to
2 deal with the international financial crimes bureau
3 in that period.

4 Q. Okay. In your 2019 resumé and the
5 earlier experience, which is page 138 of
6 Exhibit 196, you wrote about the Senate report drug
7 law enforcement and foreign policy: The Senate
8 report analyzed cases in which U.S. foreign policy
9 interests were preventing the U.S. government from
10 protecting U.S. citizens from injury for -- by
11 foreign drug traffickers, arms traffickers,
12 criminals, and terrorists.

13 Right?

14 A. Yes.

15 Q. Is that correct?

16 That sentence does not appear in your
17 2012 resumé that was submitted in the Gill versus
18 Arab Bank; correct?

19 A. I don't know.

20 Q. It does not. Okay.

21 Have you ever written a book?

22 A. I've written chapters of books.

23 Q. You have not written a book?

24 A. Chapters only.

25 Q. Prior to 9/11, did you publish any

1 article or peer-reviewed journal on the subject of
2 terrorism finance?

3 A. No.

4 Q. Prior to 9/11, did you publish any
5 peer-reviewed books on the subject of terrorism
6 finance, or chapters of the books, for that matter?

7 A. No.

8 Q. Have you ever authored any peer-reviewed
9 article on al-Qaeda?

10 A. I'd have to go back and look at the
11 articles that I wrote that were published in various
12 academic places to determine how much it was about
13 al-Qaeda. So I can't answer the question offhand.

14 Q. As you sit here, can you remember any --
15 anything --

16 A. I was -- my writing, after 9/11, focused
17 very broadly on what was needed to combat terrorist
18 finance. Those were works that I was commissioned
19 to do. The writing I did was the work that was
20 commissioned.

21 Q. Okay. Have you ever authored any
22 peer-reviewed article on Islamic terrorism?

23 A. Certainly, the writing that I've produced
24 includes that topic. I'd have to go back and read
25 all of the articles to be able to answer the

1 question at this point.

2 Q. Have you ever authored any peer-reviewed
3 article on al-Qaeda finance and terrorism finance of
4 facts of 9/11?

5 A. I'd have to go back again to the survival
6 article that I wrote to the international -- it's
7 the one that was published in the aftermath, but I
8 wrote a bunch of things in that period of time which
9 covered all these issues. But I have not gone back
10 lately to look at them. So I'd have to go back and
11 look at them to be able to answer your question as
12 formulated.

13 Q. Okay.

14 A. I wrote a lot about those topics. What I
15 put into those particular chapters of those books, I
16 don't recollect. It tended to be largely focused on
17 what was needed institutionally to address the gaps
18 in regimes that were in place to combat terrorist
19 finance. That was the major thing that I tended to
20 write about. How much of that went into the
21 individual case of al-Qaeda, I just don't recollect.

22 Q. Okay. Have you ever been accused of
23 committing perjury?

24 A. In court?

25 Q. In general.

1 A. When I'm asked a question, as an expert,
2 I draw on my own personal experience in the field,
3 and the -- whatever period of time that I worked on
4 an issue directly when I was in the government, I
5 draw on my experience as a practitioner, as a
6 lawyer, in which I -- when I've been exposed to
7 clients with issues in that area, and my study of
8 the law and my past study of facts. I draw upon, as
9 well, analysis and academic work that I've
10 undertaken in the past and the research I did in
11 connection with that.

12 I look at primary source information when
13 it's available. So Jamal al-Fadl, for example,
14 Mr. Ahmad, would both be examples of first-hand
15 information. There's also -- can be first-hand
16 information in newspaper reports when you have
17 contemporaneous interviews or quotes from
18 individuals, and I will use that as well.

19 I rely on government reports, both from
20 the United States and sometimes from other
21 governments. I rely on UN reports and other
22 official reports, because based on my experience,
23 those are typically based on a tremendous amount of
24 work, which often is documented; it's not always
25 explicitly documented.

1 So what I try to do -- and this is --
2 this was how I went about my work for the U.S.
3 government from 2000 to 2008, when I was doing the
4 analytic work I discussed with you. It's
5 essentially an all-source approach in which you take
6 as many sources as you can and then weigh the
7 sources and bring them together to form your
8 analytic findings on a topic. And so it's really I
9 try and take advantage of the work that's been done
10 by others, as much first-hand information as I can
11 get my hands on, and analyze and assess it and bring
12 human reason to bear upon it.

13 Q. (BY MR. MOHAMMEDI) Do you apply any
14 scientific and social science methodology?

15 A. I think I have just described the
16 methodology that I apply. And I'm not sure
17 precisely what type of information you're looking
18 for. Is it statistical information?

19 Q. You are the expert here. I guess you
20 will explain to me how you -- how you reach your
21 opinion by applying scientific and social science
22 methodology.

23 MR. HAEFELE: Objection to form.

24 A. As I've just described, I take primary
25 source material, which is capable of being read, and

1 What I did was I looked at, in light of
2 my own experience and knowledge, which included the
3 academic analytic work that I did for the U.S.
4 government, as well as my own tenure working for the
5 Senate and my two tenures at the State Department,
6 and the work that I've done on behalf of clients, I
7 looked at the materials provided to me by the
8 attorneys in this case, supplemented it with
9 additional research into the secondary literature of
10 some scholars, who I cite in my reliance material,
11 and that's how I came to my formulations.

12 When there was first-hand information
13 that I thought was particularly relevant, I looked
14 at it. And when I didn't have it, I asked for more
15 of it. A particular case of that is there were
16 representations about the extent of audits. I
17 wanted every audit that I could get my hands on.
18 The more, the better, because that's primary source
19 information that's very important to me.

20 Q. So let's make it clear on the record that
21 the audit you're referring to are not in your
22 affirmative report. Right?

23 A. Yes.

24 Q. Let's also --

25 A. Excuse me, the audits for WAMY were not

1 in my affirmative report. There were some IIRO
2 audits. I asked for them and I wanted them. I got
3 more audits from my rebuttal report and then
4 analyzed those.

5 Q. And let's make it clear that the reliance
6 materials that you have, the documents produced in
7 this -- the documents produced in this case were
8 given to you by plaintiffs' attorneys; correct?

9 A. Most of them were, or many of them were.
10 I supplemented as best I could with additional
11 research when I felt that additional research that I
12 was able to get in the limited amount of time that I
13 had between the time of my retention and the time
14 that my report was due, I would supplement.

15 Q. In your prior testimony, you stated those
16 are the documents that you relied on in rendering
17 your opinion in your affirmative report, correct?

18 A. Yes.

19 Q. The index. Okay. If an allegation
20 appears in a government document in your
21 methodology, do you accept the fact -- accept it as
22 a fact or do you do anything to attempt to
23 corroborate or dispel fact assertions?

24 MR. HAEFELE: Objection to form.

25 A. That's a very broad category, government

1 be from a mild concern to a moderate concern to a
2 serious concern.

3 In the last half of the 1990s, terrorism
4 associated with areas of Muslim and non-Muslim
5 conflict and the growth of al-Qaeda were both things
6 that were becoming of increased concern to the
7 United States government as a matter of national
8 security and a particular concern for Richard
9 Clarke, who was my mentor in this period of time.

10 Q. I get to -- I don't think you have
11 provided the standard of concern that I'm asking
12 you, but that's fine. We can move on.

13 MR. HAEFELE: Let me just object one
14 more time to the cutting off the witness
15 before he answers his questions.

16 A. As I've tried to express, the term
17 concern can mean many things, but typically,
18 typically its meaning in this kind of a context,
19 when the U.S. government official says something is
20 of concern, or continuing concern, it's a -- it
21 involves a communication to another government.
22 There was not an internal communication within the
23 government to démarche the other government about
24 its concern. And in connection with the three
25 defendants in this case, the United States

1 A. Sorry I --

2 Q. (BY MR. MOHAMMEDI) Do you corroborate
3 the proffer, if -- the information in the proffer
4 with other information that you have to be able to
5 reach an opinion?

6 MR. HAEFELE: Objection to form.

7 A. I looked at as much information as I
8 could within the period of time allotted to me to
9 try to incorporate and understand a wide range of
10 materials, which included the proffer but was not
11 limited to the proffer. So for example, with monies
12 relating to the Aranda case, there's separate
13 documents from the United States government, such as
14 terrorist designations. There's separate
15 information from the UN, such as terrorist
16 designations. You look at everything you can to try
17 and figure out what's going on.

18 Q. (BY MR. MOHAMMEDI) Okay. What about
19 Christopher Hedges' 1992 New York Times article.
20 It's not a primary source?

21 A. It's not -- it's a newspaper article
22 that's contemporaneous. And it's contemporaneous on
23 certain things. Then I think it can be relied on as
24 a primary source for certain things. In other
25 aspects, it's a secondary source.

1 A. I don't recollect.

2 Q. Okay. So -- strike that.

3 How many times did you -- how much time
4 did you spend reviewing the Harmony database?

5 A. Not a lot. As I said, the legend on it
6 cautioned me on. I tested the legend by looking at
7 a couple of things to see if it was going to be of
8 any value. Found it wasn't any value for that
9 purpose and didn't spend more time on it. I had a
10 very limited amount of time between December and
11 when I turned the report in, and didn't spend much
12 time on it.

13 Q. So it is your testimony you didn't find
14 any evidentiary value in those documents, that's why
15 you stopped looking at them?

16 A. That's correct, I did not.

17 Q. Does the CRA have any agency -- in your
18 report, you went through the details. And I'm not
19 going to go through the details now, but I just
20 wanted to for the purposes of your methodology, did
21 you consider the adverse reporting in that case part
22 of -- as a primary source?

23 A. I don't understand what you --

24 Q. Okay. So just to be very quick, the
25 Canadian report, the CRA report, listed adverse

1 funded by these large Gulf charities and had
2 employees who would siphon the money to al-Qaeda.

3 Q. (BY MR. MOHAMMEDI) So it says
4 al-Haramain. It doesn't say WAMY, it doesn't say
5 Muslim World League, correct?

6 MR. HAEFELE: Objection to form and
7 objection to the interruption.

8 A. It says, smaller charities in various
9 parts of the globe were funded by these large Gulf
10 charities. The al-Haramain reference is a reference
11 to an entity which Saudi Arabia joined and
12 sanctioned, and it is a "such as." Such as means
13 it's not the only one. Now, there were a limited
14 number of large international charities in
15 Saudi Arabia. And the one the United States
16 government referred to repeatedly as a particular
17 concern in public testimony and in private
18 communications to the Saudi Arabian government were
19 IIRO, the Muslim World League, and WAMY.

20 Q. (BY MR. MOHAMMEDI) So here, if you --
21 Mr. Winer, what does it say on those pages that
22 WAMY, Muslim World League, and IIRO played any role
23 in helping create al-Qaeda's global infrastructure.
24 What does it say here?

25 A. I believe it says, the statement, large

1 international charities such as, which set up, were
2 supporting, smaller charities, is a reference to
3 those three entities.

4 Q. But my question is very specific. Has it
5 said those names that they form helping create
6 al-Qaeda global infrastructure. Based on your
7 statement in 5.1: Central role in helping al-Qaeda
8 creates its global infrastructure, uniting disparate
9 Muslim groups, in different parts of the world into
10 a common extremist cause. I'm just asking, does --
11 is it true that WAMY, Muslim World League, and IIRO
12 were not named in this; correct?

13 MR. HAEFELE: Objection to form.

14 Q. (BY MR. MOHAMMEDI) That is 9/11
15 Commission report; correct?

16 MR. HAEFELE: The report is reticent
17 on the names of who the other large
18 international charities were.

19 Q. (BY MR. MOHAMMEDI) You're -- but,
20 Mr. Winer, you're the one who wanted to refer me to
21 page 170, 171 to support your opinions; right?
22 Correct?

23 A. Yes, I'm asking to you understand this in
24 connection with many statements made by U.S.
25 government officials in other forums about these

1 entities, and you put two and two together and it
2 makes four.

3 Now, if you look on page 171 --

4 Q. These are your assumptions; correct?

5 A. I beg your pardon?

6 Q. These are your assumptions; correct?

7 A. This is my understanding. Page 171,
8 please. The end of the first paragraph, the first
9 full paragraph: This conclusion does not exclude
10 the likelihood that charities with significant Saudi
11 government sponsorship -- charities -- diverted
12 funds to al-Qaeda. Charities is more than one.
13 It's not just al-Haramain.

14 Q. First of all, it does not say WAMY,
15 Muslim World League, and IIRO, correct?

16 MR. HAEFELE: Objection.

17 Argumentative.

18 A. It is reticent on the identity of those
19 charities.

20 Q. (BY MR. MOHAMMEDI) And that's based on
21 your assumption, correct?

22 MR. HAEFELE: Objection.

23 A. Based on the other statements made by
24 U.S. government officials in a number of other
25 contexts. That is what I believe, correct.

1 A. No, I didn't say WAMY audits.

2 Q. Okay. So my question, which other
3 organization you reviewed documents showing --
4 because in your footnote, you state that you have
5 seen no audits pertaining to WAMY or Muslim World
6 League. But audit of entities they funded or
7 assisted show false recording.

8 A. I have sought to answer your question
9 accurately each time you've asked it. Let me try
10 again.

11 At the time I wrote the first report, I
12 asked for but did not receive audits pertaining to
13 WAMY or Muslim World League. I wanted them, I
14 didn't get them. I got them and discussed them in
15 the rebuttal -- my rebuttal report. I did see
16 audits of entities they funded or assisted which
17 showed false recordkeeping.

18 Q. And which organizations are those?

19 A. The Third World Relief Association is
20 one. And the IIRO is another.

21 Q. So how come we don't have that in the
22 reliance material, the document of WAMY showing the
23 false recording in the Third World Relief
24 organization?

25 A. I believe they are in the reliance

1 Q. Is that correct?

2 A. That's my understanding of when they say:
3 Who was behind the biological crisis which became
4 like brainwashing? A Jew. And it goes on from
5 there, and they talk about why are you so miserly
6 with your blood.

7 Q. Okay. So to you that is --

8 A. Teach our children to love taking revenge
9 on the Jews and the oppressors.

10 Q. Do you agree that there are hatred
11 statements made all over the world?

12 MR. HAEFELE: Objection.

13 A. I'm not in a position to discuss -- to
14 opine on hatred statements all over the world. This
15 is calling for revenge on the Jews.

16 Q. (BY MR. MOHAMMEDI) And you are saying
17 that WAMY text specifically said that we are
18 justifying the killing of nonbelievers?

19 A. Yes.

20 Q. Okay. We'll move on.

21 I'm just going to ask you another
22 question. You are not a religious expert, are you?

23 A. We've discussed this issue earlier.
24 You've asked me this question. I understand a
25 religion in a political context when religion is

1 used for political purposes as part of my
2 understanding of relationships among states, as part
3 of my understanding of terrorism. We had national
4 and global security issues. And so in that context,
5 yes. In the context of various religious doctrines,
6 intrareligious discussions of text, there are people
7 who spend their lifetimes as religious scholars, and
8 that has not been my work.

9 Q. And you're referring -- is it fair that
10 you are referring to a document that's expressed
11 religious views of an organization, and you are
12 making the -- you are reaching the conclusion that
13 was calling for justifying the killing of
14 nonbelievers; correct?

15 MR. HAEFELE: Objection to form.

16 A. Yes.

17 Q. (BY MR. MOHAMMEDI) You understand the
18 meaning of jihad?

19 A. It has multiple meanings.

20 Q. Okay. Do you understand the meaning of
21 Salafis?

22 A. I believe so.

23 Q. You do? And are you testifying as an
24 expert here to discuss jihad and Salafis?

25 A. Only in the context of the political

1 and I have very specific questions related to some
2 of the section you mentioned where I would really
3 like to you answer, but I'm going to go one by one.
4 There are only two.

5 7.1.3 at page 38. In addition to there
6 being no citation, you also said: Facilitating the
7 transport of fighters and terrorist to combat zones.

8 A. Yes.

9 Q. I'd like you to give me the facts.

10 A. Sure.

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) Can you offer the
13 facts as they relate to WAMY now or anything in your
14 report?

15 MR. HAEFELE: Objection to form.

16 A. I'm not sure at this moment about WAMY in
17 particular, on facilitating the transport of
18 fighters and terrorists.

19 Q. (BY MR. MOHAMMEDI) My question is very
20 specific to WAMY, Mr. Winer.

21 A. Yes. In paragraph 7, I trust --

22 Q. Yeah, 7.1 --

23 A. -- the entire paragraph of paragraph 7.1
24 refers to the charities collectively. It does not
25 refer to particular charities. The information on

1 particular charities is specified by name.

2 Q. Okay. But there is no -- as you sit here
3 and in your report, you don't refer to WAMY;
4 correct?

5 A. I don't recollect referring to WAMY of
6 facilitating transport of fighters. I would have to
7 go back and look as to which charities were involved
8 in that.

9 Q. Okay. And then 7.1.4. You state:
10 Buying weapons for Islamic jihadists and terrorists?

11 A. Yes.

12 Q. What facts do you have that WAMY did
13 this? Do you have any fact that WAMY did this?

14 A. Yes. WAMY's -- the co-head of WAMY
15 Vienna, and the -- federal relief agency was
16 involved in these activities, both by public
17 accounts and by some of the materials that were
18 looked at in the audit.

19 And he was in both roles, according to a
20 primary source document that I reviewed as well as
21 two statements that he made.

22 Q. You're referring to the Bosnian war;
23 correct?

24 A. Yes.

25 MR. HAEFELE: Objection to the form.

1 we've achieved our goal by teeing issues up.

2 There are --

3 SEN. ARLEN SPECTER: I'm not asking
4 you about internal deliberations, I'm asking
5 you -- and let me be -- let me be specific
6 with some organizations which have been
7 discussed with you by staff prior to your
8 coming here. Were there recommendations as to
9 the National Commercial Bank of Saudi Arabia
10 for economic sanctions which were rejected?

11 RICHARD NEWCOMB: No,
12 Senator Specter, there was not.

13 SEN. ARLEN SPECTER: Were there
14 recommendations for sanctions against the
15 World Assembly of Muslim Youth?

16 RICHARD NEWCOMB: There, as in
17 others, these are issues that we looked at and
18 examined very carefully. There was no
19 recommendation out of our office on either of
20 those.

21 SEN. ARLEN SPECTER: Well, what
22 conclusions did you come to on the World
23 Assembly of Muslim Youth?

24 RICHARD NEWCOMB: That, along with
25 the whole variety of charitable organizations

1 operating head offices in Saudi or
2 organizations that we're looking at, as well
3 as the whole range of several hundred or so
4 possible organizations that may be funding
5 terrorist activities, rising to the level of a
6 recommendation is a complicated policy
7 practice --

8 SEN. ARLEN SPECTER: Well, I'm not
9 concerned about several hundred others. I'd
10 like to know what about the World Assembly of
11 Muslim Youth. Were they funding terrorist
12 organizations subject to economic sanctions
13 without any action being taken?

14 RICHARD NEWCOMB: I can't conclude
15 that in this hearing today. It is an
16 organization that we --

17 SEN. ARLEN SPECTER: You say you
18 can't conclude it --

19 RICHARD NEWCOMB: Cannot. Cannot.

20 SEN. ARLEN SPECTER: -- at this
21 hearing today?

22 RICHARD NEWCOMB: Well, we did not
23 conclude that in our deliberations, so I can't
24 say that that was a recommendation of our
25 office.

1 (Winer Deposition Exhibit 913, WAMY
2 International, Inc. 2021 Annual
3 Report, was marked for
4 identification.)

5 MR. HAEFELE: What is Exhibit 18? Do
6 you mean --

7 MR. MOHAMMEDI: Yeah, it is WAMY
8 registration of 2021. And this is a
9 registration for WAMY International with the
10 Commonwealth of Virginia State Corporation
11 Commission.

12 MR. HAEFELE: Just so we're clear,
13 it's Exhibit 913.

14 MR. MOHAMMEDI: Exhibit 913, correct.

15 Q. (BY MR. MOHAMMEDI) You didn't consider
16 this in your material when you were rendering your
17 opinion, correct?

18 A. This document is dated January 23, 2021,
19 so I did not consider it in my report that was
20 written some months before.

21 Q. (BY MR. MOHAMMEDI) Mr. Winer, if I
22 represent to you that all the registration of WAMY
23 International from that time until 2020 was
24 submitted and were produced to plaintiff counsel,
25 would you agree with me?

1 MR. HAEFELE: Object to the form.

2 A. Would I agree with you on what, sir?

3 Q. (BY MR. MOHAMMEDI) We have produced the
4 documents, the registration documents, for every
5 year including -- every year up to 2020, I believe,
6 to you -- to the lawyers who hired you in this
7 production --

8 A. Yes.

9 Q. -- of this case production.

10 A. What's the question, please?

11 Q. The question -- so you said this was
12 2021, and you did not review. And the question, are
13 you aware that WAMY produced all registrations of
14 WAMY prior to 2021?

15 A. I was not aware of that production, but I
16 did understand WAMY was still out there, as I said
17 to you a minute ago.

18 Q. We can take that down.

19 MR. MOHAMMEDI: Can we take a
20 five-minutes break?

21 THE VIDEOGRAPHER: Going off the
22 record. 4:11 p.m.

23 (Recess taken, 4:10 p.m. to
24 4:18 p.m. EDT)

25 THE VIDEOGRAPHER: Back on record at

1 4:18 p.m.

2 Q. (BY MR. MOHAMMEDI) Mr. Winer, are you
3 aware of any person who attended madrassas, as you
4 mentioned from WAMY, WAMY madrassas, that became a
5 member of al-Qaeda?

6 A. I don't know who attended WAMY madrassas
7 and who did not.

8 Q. But you are not aware of anyone who was
9 at the madrassas that became a member of al-Qaeda?

10 A. I do not know what madrassas incubated
11 which fighters and which terrorists, period.

12 Q. Okay. So the question you are not aware
13 of anyone who attended madrassas, it doesn't matter
14 which type of madrassas, that became a member of
15 al-Qaeda.

16 A. I know that there are people who became
17 members of al-Qaeda who attended madrassas.

18 Q. What about WAMY?

19 A. I don't know which madrassas they
20 attended, whether they were related to WAMY or any
21 other organization that sponsored a madrassas.

22 Q. So as you sit here, you don't "know"
23 know; correct?

24 A. That's correct.

25 Q. Let's go to your report, Section 12,

1 at together. And that's how I understand the
2 situation.

3 Q. (BY MR. MOHAMMEDI) Isn't it a fact that
4 because you are making a statement that BIF and LBI
5 are intertwined and you mentioned that many times,
6 interchangeable, based on a proffer; right?

7 That's --

8 A. No.

9 Q. Okay. So let me ask you a question.
10 Another question.

11 It's not based on a proffer you say;
12 correct?

13 A. It's based on all the information
14 available to me.

15 Q. Okay. Okay. So let's go through some of
16 the documents to show you.

17 If you put in Exhibit 26, which is --
18 just remind me where we are.

19 TRIAL TECHNICIAN: 914, I have.
20 (Winer Deposition Exhibit 914,
21 Minutes of the Seventh Meeting of the
22 Benevolence Committee's Supervisory
23 Council, was marked for
24 identification.)

25 Q. (BY MR. MOHAMMEDI) This is an Arabic

1 document, translated in English, which is -- which
2 is document that have been produced in this case.
3 Minutes of the Seventh Annual Meeting of LBI
4 Supervisory Council on July 8, 1993.

5 If you go to the -- I know you don't
6 speak Arabic, Mr. Winer, but there is an English
7 translation. Can you go down to the English
8 translation? Or go up. I'm not sure where. It's
9 either first.

10 Are we there?

11 A. Yes.

12 Q. No, not to you, Mr. Winer, I'm talking to
13 the tech.

14 TRIAL TECHNICIAN: Is it not showing
15 on your screen?

16 MR. MOHAMMEDI: It's not, no.

17 Oh, it's there.

18 Q. (BY MR. MOHAMMEDI) This meeting refers
19 to the council approval of Dr. Hassan Bahifz Allah
20 wanting to replace Adel Batterjee after being
21 dismissed for an extension of six months beginning
22 on August 1, 1993. Do you see that?

23 A. No.

24 Q. Okay. So can you go to the section --
25 that's it.

1 Okay. Are you ready? Let me know when
2 you're ready.

3 A. I've read the material that you've
4 provided me, in front of me in yellow.

5 Q. Yes, the yellow pages.

6 It is fair to say Batterjee's dismissal
7 was in February 1993 if it was an extension of six
8 months for the person who replaced him starting
9 August 1993; correct?

10 A. I don't see those dates here.

11 TRIAL TECHNICIAN: Mr. Mohammedi, if
12 you could just direct me to what section.

13 MR. MOHAMMEDI: Yeah, I'm going to.

14 Go to page 9.

15 This one here.

16 THE WITNESS: So is executive
17 director the title Batterjee had rather than
18 chair?

19 Q. (BY MR. MOHAMMEDI) Correct.

20 A. Then I'm corrected, it's executive
21 director rather than chair. I accept that
22 correction, if that's what the records show.

23 Q. And then also, that Mr. Batterjee was
24 dismissed, was gone in February 1993.

25 A. Sir, where does it say that, please?

1 Q. It says extending the one date of
2 Dr. Hassan Bahifz Allah, and that's No. 1 of the
3 second No. 1.

4 A. I see that.

5 Q. Okay. And the documents before talks --
6 I mean, the same document talks about his -- the
7 issue with the -- with the -- with Adel Batterjee,
8 but here the extension of this extended the mandate
9 of Hassan Bahifz Allah for an additional six months
10 that was following the dismissal of Mr. Batterjee.

11 A. Where does it say that --

12 Q. So we're going to show you -- if you
13 go -- if you go to page 7.

14 Make it a little bigger.

15 A. It says: The executive director briefly
16 spoke in his report of the latest updates regarding
17 the handover from the former director. I don't see
18 the word "dismissal." I see "handover." And then I
19 see a reference to tension and a promise was made to
20 quickly and directly intervene to ease such tension.

21 What is the date of the document, sir,
22 please?

23 Q. It's a meeting discussing the new
24 executive director that was an extension after six
25 months, which means Batterjee was not the executive

1 director starting February 1993; correct?

2 MR. HAEFELE: Objection, form.

3 A. It does -- it actually doesn't say that.

4 It refers to a handover from the former director.

5 And refers to an attempt to ease the tension, which

6 suggests there are still actions to be taken. So I

7 can't assess from this when he was dismissed.

8 Q. (BY MR. MOHAMMEDI) But you can assess
9 that he was not with LBI as of February 1993,
10 correct?

11 MR. HAEFELE: Objection, form.

12 A. No, I cannot.

13 Q. (BY MR. MOHAMMEDI) You cannot?

14 A. I can't tell what date he left, based on
15 this.

16 Q. If you --

17 A. If I may continue. It looks to me from
18 this document that at some point in this period, a
19 new executive director took over from the old
20 executive director. It doesn't say that the old
21 executive director was dismissed. It does say that
22 there was tension and action going -- needed -- that
23 needed to take place to ease the tension.

24 So the dates -- the basic idea that he
25 was leaving the position seems to me the most

1 plausible interpretation of this. The statement
2 that he's dismissed does not -- is not set forth in
3 this document.

4 Q. Okay. I think we -- you know, I guess we
5 will go through the documents.

6 If we can have Exhibits 23.

7 (Winer Deposition Exhibit 915,
8 2-23-1993 letter to Adel Batterjee,
9 was marked for identification.)

10 Q. (BY MR. MOHAMMEDI) Which is dated
11 February 23, 1993.

12 That is the English version, which is
13 FED-PEC0114419, the Arabic document.

14 And then there is a translation.

15 If you can just make that bigger.

16 Can you read it for -- I mean, you can
17 read it to yourself if you want to.

18 A. Yes, this is consistent with Mr. Noor
19 Wali's deposition.

20 Q. And you do not have any reason to dispute
21 this accurate -- the accuracy of this document,
22 right?

23 A. No, I do not. I believe this is likely
24 to be accurate. I have no reason not to think it
25 accurate.

1 Q. Okay. I'm also going to include to have
2 an exhibit, which is 25, ours. Where are we? Which
3 number are we at?

4 (Winer Deposition Exhibit 916,
5 5-11-1993 letter to Salman bin
6 Abdulaziz, was marked for
7 identification.)

8 Q. (BY MR. MOHAMMEDI) This is a letter from
9 Dr. Al-Juhani, who was the head of Muslim -- the
10 World Assembly of Muslim Youth.

11 A. Yes.

12 Q. Have you seen this document before? You
13 can show the English version of it.

14 A. Yes. Thank you.

15 Q. And it's dated May 11, 1993; correct?

16 A. Yes, that's the date of it, if you'll
17 give me a minute, please.

18 Q. Have you seen this document before?

19 A. I need to read it to remember whether
20 I've seen it before or not.

21 Q. Sure. Just the highlighted sections.

22 A. Yeah, I've not read this document before.

23 Q. Do you have any reason to question the --
24 this document?

25 A. No.

1 Q. It's a primary source; correct?

2 A. Yes.

3 Q. And it's dated May 11, 1993; correct?

4 A. Yes.

5 MR. MOHAMMEDI: Can we get

6 Exhibit 27?

7 (Winer Deposition Exhibit 917,

8 6-14-1996 Minutes of Islamic

9 Benevolence Committee dissolution and

10 merging with World Assembly of Muslim

11 Youth, was marked for

12 identification.)

13 Q. (BY MR. MOHAMMEDI) As of May 28, 1996,

14 LBI merged with WAMY; correct?

15 A. Yes. I am familiar with this.

16 Q. You are familiar with this one, right?

17 MR. HAEFELE: Omar, just so we're

18 keeping consistent with the markings here,

19 this is already Noor Wali Exhibit 267, I

20 think.

21 MR. MOHAMMEDI: Okay, yeah. That's

22 fine. Yes. Thank you, Robert.

23 A. I do not remember whether I saw this

24 document or not. I think I did, but I'm not

25 positive, but I'm certainly familiar with the action

1 Q. (BY MR. MOHAMMEDI) Let me see. 50 --
2 that's right.

3 A. Which paragraph?

4 Q. You are referring to U.S. versus Arnaout.
5 When you're making statement, you're referring to
6 the proffer; correct? The prosecution documents.

7 A. I'm still lost as to what you're
8 referring to. What page?

9 Q. Let me direct you. U.S. versus Arnaout.
10 This is the page 32.

11 If you go to page 32, and it is 2.38.10.

12 And when you making the statement, your
13 referring to the government evidentiary proffer
14 supporting the admissibility of co-conspirator
15 statement; correct? And that's per footnote No.
16 45?

17 A. I'm sorry, I'm still lost, sir, as to
18 what you're --

19 Q. If you go to your rebuttal page 32.

20 A. Yes.

21 Q. And go to 2.38.10. And then when you're
22 referring to --

23 A. Yes. Yes. Footnote 45 refers to the
24 government evidentiary proffer. That is correct.

25 Q. You were referring to that.

1 Have you considered any other documents
2 in the filing in that case?

3 A. I've considered whatever documents are in
4 my reliance materials. At this moment, I don't
5 remember what I considered and did not over the
6 course of all of this work. I can't tell you every
7 document is there. I can say that I also considered
8 the statements about Batterjee made by the U.S.
9 government before, during, and after this matter,
10 and about what he did. And what Arnaout did. And
11 that's in my rebuttal statement laid out in a fairly
12 systematic fashion.

13 Q. Okay. If you go to Exhibit 35. And now
14 it's sentencing memo. We have it in front of us --
15 I meant, sorry, exhibit -- what is the exhibit we're
16 at right now? 920.

17 If you scroll down to page 4, this is --
18 this is a memo filed by Arnaout's lawyer in the
19 case. Arnaout's lawyer in the case. And if you go
20 to page 4, it says that Mr. Arnaout's organization,
21 BIF-USA, no affiliation to LBI.

22 Do you see that?

23 A. Yes.

24 Q. Let's go to the next exhibit we have for
25 you, Exhibit 36.

1 (Winer Deposition Exhibit 921, USA v.
2 Arnaout Plea Agreement, was marked
3 for identification.)

4 Q. (BY MR. MOHAMMEDI) If you go to page 2
5 to 4 in that, it's a plea agreement.

6 The question, do you know that burden of
7 proof for sentencing enhancement under United States
8 sentencing guidelines is preponderance of evidence?
9 It's not beyond reasonable doubt?

10 A. I haven't thought about the issue of what
11 the standard is for enhancements.

12 Q. So government claim BIF are now subject
13 to terrorism enhancement under the guidelines.

14 Even with all the evidence at the
15 government's disposal with respect to BIF and
16 Arnaout, what the Court found government could not
17 meet the burden.

18 A. I'm sorry, where are you reading from,
19 sir?

20 Q. This is not --

21 Can you hold on a second, please?

22 Yeah. Yes, can we put the Exhibit 37 --
23 sorry about that.

24 (Winer Deposition Exhibit 922, U.S.
25 v. Arnaout 282 F.Supp.2d 838 (2003),

1 was marked for identification.)

2 Q. (BY MR. MOHAMMEDI) Sir, the government
3 claim BIF are now subject to terrorism enhancement
4 under the guidelines. But the Court, if you go
5 to -- let's see, what page do we have. This
6 highlight I'm trying to find out. 838.

7 If you go down when you see the
8 highlighted section.

9 So the application here, it says, if you
10 see that: Arnaout does not stand convicted of a
11 terrorism offense, and goes on. Do you want to read
12 that for us, Mr. Winer?

13 A. I read it.

14 Q. You read it? Do you agree with that?

15 MR. HAEFELE: Objection to form.

16 A. The terrorist charges were dropped as
17 part of the plea agreement. That's accurate.

18 Q. (BY MR. MOHAMMEDI) And is it because the
19 government could not meet its burden; correct?

20 MR. HAEFELE: Objection to the form.

21 A. My understanding of the case as laid out
22 in my report and my rebuttal report, is that the
23 judge's decision on the admissibility of statements
24 by co-conspirators impaired the government's case,
25 and thus the government was not going to be able to

1 put into the record what it wanted to be able to put
2 into the record, and therefore it agreed to the plea
3 agreement, as did the defendant.

4 Q. (BY MR. MOHAMMEDI) Can you go to page 6
5 of the document?

6 Can you read this to us?

7 A. Yes, I'm aware of this. I've read this
8 at some point.

9 Q. And do you agree with that statement?

10 A. I agree with the statement based on --

11 MR. HAEFELE: Objection to form --

12 A. -- the information --

13 I agree with the statement based on the
14 consequences of the decision that was made to
15 eliminate the particular evidence that the
16 government was going to be relying on.

17 Q. (BY MR. MOHAMMEDI) Do you believe in the
18 judge's decisions?

19 A. The judge's decisions are a legal fact.

20 Q. They are legal facts, right? And they
21 are better than proffer, aren't they? They are
22 something you should be relying on rather than the
23 proffer; correct?

24 A. Yes, but you have to distinguish between
25 a criminal case and a civil case, which are not the

1 same thing. And not every judicial ruling is a
2 ruling that's going to be correct. Judges, in fact,
3 get overruled from time to time. That's part of the
4 process. In this particular case, no one appealed.
5 Neither the defendant nor the government appealed.
6 The government complained afterwards and reaffirmed
7 its belief that the defendants had committed more
8 serious offenses, but that's neither here nor there.
9 The decision is a fact, and it's legally accurate.
10 This was the decision that was reached.

11 Q. And you said there were no more --

12 If you can just put Exhibit 38, which is
13 a Seventh Circuit decision, which is the document
14 affirming the district court ruling.

15 (Winer Deposition Exhibit 923, U.S.
16 v. Arnaout 431 F.3d 994 (2005), was
17 marked for identification.)

18 A. So was there appeal here?

19 Q. (BY MR. MOHAMMEDI) Look at the -- look
20 at the exhibit where it says --

21 A. The United States did in fact appeal. I
22 had forgotten. Thank you for correcting me.

23 Q. Thank you.

24 So you were not aware of this, correct?

25 A. I had forgotten --

1 Q. Of this decision, the Seventh Circuit
2 decision?

3 A. I was aware of it. I had forgotten. It
4 says that: The District Court did not commit clear
5 error in refusing to apply the --

6 Q. Let's go to Section 3A1.4.

7 And there are highlights, if you go down.

8 Can you go down, just for us to see?

9 TRIAL TECHNICIAN: What page is it
10 on?

11 MR. MOHAMMEDI: Let me see. It's
12 highlighted. So you will find it.

13 Page 8.

14 Q. (BY MR. MOHAMMEDI) And the Court found
15 that: The district court did not [sic] find that
16 the record did not establish by a preponderance of
17 the evidence that Arnaout attempted, participated
18 in, or conspired to commit any act of terrorism.
19 The district court also found that the government
20 had not established that the Bosnian and Chechen
21 recipients of BIF aid were engaged in a federal
22 crime of terrorism, or that Arnaout intended the
23 donated boots, uniforms, blankets, tents, x-ray
24 machine, ambulances, nylon or walkie-talkies to be
25 used to promote a federal crime of terrorism.

1 don't recollect on the enhancement.

2 Q. Okay.

3 Now, if we go back to the terrorism
4 finance staff monograph, I think we entered that as
5 Exhibit 12, I believe. Sorry, exhibit -- what's
6 that exhibit you enter, the monograph? 909.

7 And if you go to page 11, which is PDF
8 page 114. I'm sorry, page 111, PDF page 114.

9 And it says: Despite these troubling
10 links, the investigation of BIF revealed little
11 compelling evidence that BIF actually provided
12 financial support of al-Qaeda, at least after
13 al-Qaeda was designated a foreign terrorist
14 organization in 1999. Indeed, despite unprecedented
15 access to the U.S. and foreign records of these
16 organizations, one of the most experienced and best
17 terrorist prosecutors has not been able to resolve
18 the investigation of BIF without conviction for
19 support of terrorism, although the OFAC action --
20 not -- shut down BIF, that victory came at the
21 considerable cost of negative public opinion in the
22 Muslim and Arab communities, who contend that the
23 government's destruction of these charities reflects
24 bias and injustice with no measurable gain to
25 national security.

1 MR. HAEFELE: Objection to form.

2 Is there a question?

3 Q. (BY MR. MOHAMMEDI) Do you -- have you
4 considered this?

5 MR. HAEFELE: Objection to form.

6 A. Yes, I read the terrorist financing staff
7 monograph. And these cases, complex financial crime
8 cases from all counts.

9 Q. (BY MR. MOHAMMEDI) Did you --

10 A. Please allow me to respond.

11 Complex financial crime cases, I've seen
12 repeatedly, run into problems even when it was clear
13 to me, in connection with such cases, that there was
14 serious criminal activity. I've seen this
15 repeatedly. They are hard cases to make, because
16 the actions that relate to complex international
17 crime cases, which include terrorist finance cases,
18 can take place over a long time. They can involve
19 people who aren't available for testimony in the
20 United States. The source is going to be a
21 mixture -- can involve intelligence sources which
22 can't be readily converted into physical evidence.
23 So they are hard case to make.

24 In this case, there is a reference here
25 to at least after al-Qaeda was designated a foreign

1 suspect it has. I don't know.

2 MR. MOHAMMEDI: The CRA report.

3 MR. HAEFELE: Pardon me?

4 MR. MOHAMMEDI: The Canadian Revenue
5 Agency report.

6 MR. HAEFELE: Oh, CRA report. I'm
7 sorry.

8 MR. MOHAMMEDI: Right.

9 MR. HAEFELE: I suspect it has been.
10 I don't recall.

11 MR. MOHAMMEDI: Why don't you put it
12 in now, since we're not.

13 MR. HAEFELE: That's fine. Let's put
14 it in as a new one. 925.

15 (Winer Deposition Exhibit 925, Letter
16 to Ayman Al-Taher, Subj: Notice of
17 Intention to Revoke the World
18 Assembly of Muslim Youth,
19 FED-PEC0218170-218203, was marked for
20 identification.)

21 Q. (BY MR. MOHAMMEDI) I assume, Mr. Winer,
22 that you've seen this one, since you refer to it
23 many times in your report?

24 A. Your assumption is correct.

25 Q. You'd agree with me this is not an

1 intelligence report; right?

2 A. It is not an intelligence report; that is
3 correct.

4 Q. It is not a law enforcement report;
5 correct?

6 A. It's a report of the Canada Revenue
7 Agency, notice of intention to revoke the WAMY
8 registration in connection with the Income Tax Act.

9 Q. What type of registration that WAMY
10 Canada was -- CRA was trying to invoke WAMY Canada?

11 A. I believe it was its registration for
12 charter.

13 Q. It's fair to say its not-for-profit
14 status; correct?

15 A. Yes.

16 Q. So not revoking registration of WAMY
17 Canada altogether, just not-for-profit status;
18 correct?

19 A. I'd have to look at it again to address
20 that issue.

21 Q. Okay. I guarantee that's what happened.

22 A. I accept your representation on that.

23 Q. What do you understand the consequences
24 of revoking WAMY Canada's status of charity for
25 Canadian tax purposes?

1 A. Contributions to it wouldn't be counted
2 as deductible.

3 Q. I'm sorry, I didn't hear that.

4 Can you repeat that? I'm sorry, I
5 couldn't hear it.

6 A. I would think contributions to it would
7 not be tax deductible. I don't know what the impact
8 would be on its operation -- operating ability. I'd
9 have to look at that issue. I haven't considered
10 that issue. Whether it could have --

11 Q. Whether --

12 A. Or not it could have any remaining
13 capacity to operate in Canada after that.

14 Q. Are you aware if the Canadian government
15 froze the assets of WAMY Canada?

16 A. I have no reason to believe that it did.

17 Q. And you agree that the subject of all of
18 the review by CRA was WAMY Canada branch, not WAMY
19 Saudi Arabia; correct?

20 A. That's correct.

21 Q. It is fair to say that what -- CRA did
22 not investigate WAMY Saudi Arabia; correct?

23 A. It investigated the matters that were
24 within its jurisdiction, which would go to the
25 activities of the entities based in Canada and the

1 transactions that it was involved in. It certainly
2 would not have gone to conduct an investigation in a
3 foreign country. That would tend to be outside the
4 ability of most revenue services, and I presume of
5 Canada's.

6 Q. Right. And it did differentiate between
7 WAMY and WAMY Canada, and I think what it says is,
8 mostly in the exhibit that we have here, it says
9 page 5 of 22, which is page 8 PDF, specifically
10 states WAMY and WAMY Saudi Arabia; correct?

11 A. It does make references to WAMY
12 Saudi Arabia here.

13 Q. And do you believe WAMY means WAMY
14 Canada?

15 A. Yes.

16 Q. Okay. Can we get Exhibit 41? It is a
17 declaration by Khatib.

18 (Winer Deposition Exhibit 926,
19 Declaration of Mohammed Al Khatib,
20 was marked for identification.)

21 Q. (BY MR. MOHAMMEDI) Have you seen this --
22 have you seen this declaration before?

23 A. Yes, I have seen it.

24 Q. And you considered in your report by --
25 you went through it and you considered it in your

1 Q. Do you have an idea where the money came
2 from?

3 A. Not from this record.

4 Q. In your Section 10.3-10.4. Page 68-71.
5 We can take this down.

6 MR. HAEFELE: What page?

7 MR. MOHAMMEDI: Page 68.

8 MR. HAEFELE: Of the initial report?

9 MR. MOHAMMEDI: Of the initial
10 report, yes. The affirmative report.

11 Q. (BY MR. MOHAMMEDI) In that page 68, you
12 say, Section 10.3, you say that CRA assessed that
13 WAMY Canada, Saudi parent, provided support to
14 al-Qaeda.

15 Do you see that?

16 A. I'm not clear as to which paragraph
17 you're pointing to, I'm sorry.

18 Q. And in Section 10.3, page 68.

19 A. It says that the WAMY branch was stripped
20 of its charitable status by Canada after a Canada
21 revenue agency investigation found that the charity
22 had failed to comply with basic bookkeeping and
23 accounting requirements for the charity and was
24 inextricably linked to its Saudi parents, which
25 Canada assessed to have provided support to

1 al-Qaeda.

2 Q. Where is it in the CRA report that this
3 finding was made?

4 A. I would have to go back to the CRA report
5 to tell you.

6 I can't tell you out of my memory where
7 it said that. I believe that summarizes what they
8 found.

9 Q. So if you go to page --

10 A. In paragraph 10.3.4, I quote what CRA
11 found.

12 Q. Okay. So if you go to -- let me just
13 look at it.

14 Page 1 of the CRA report at exhibit --
15 page 1. The CRA report. That's where we entered.
16 I can't remember the exhibit number now.

17 TRIAL TECHNICIAN: Was it the last
18 exhibit entered?

19 MR. MOHAMMEDI: 925.

20 Q. (BY MR. MOHAMMEDI) So in page 1 of the
21 report, WAMY Canada parent organization located in
22 Saudi has been alleged to support terrorist.

23 Does it say that? It says that, correct?

24 A. Yes.

25 Q. Okay. So your statement -- do you -- is

1 it fair to say your statement on CRA report on WAMY
2 is not correct?

3 A. I would have to take a look at the rest
4 of the report. There is a difference between the
5 word assessed and which has been alleged, and I
6 think we have to look at the whole report in order
7 to fully address that issue, and not just this
8 paragraph.

9 Q. Okay. Do you agree -- do you know that
10 in Exhibit 45, if you go to exhibit that were just
11 entered now. Right.

12 At page 4, can you read that, which is
13 highlighted? That's what off of the -- that's the
14 information, the content of the CRA report.

15 Can you read that?

16 It says United States District Court For
17 the District of Columbia lawsuit filed by victims
18 families of 9/11.

19 Do you see that?

20 A. Yes.

21 Q. Are you aware the CRA considered an
22 allegation made by the lawyers who hired you?

23 MR. HAEFELE: Objection to form.

24 A. They considered everything that they
25 listed, which was --

1 Q. (BY MR. MOHAMMEDI) The lawyers that
2 hired you, those allegations, correct? They're
3 still allegations.

4 MR. HAEFELE: Objection to form.

5 A. That's correct.

6 Q. (BY MR. MOHAMMEDI) In 10.3.1, page 68,
7 again, you say that CRA audit found massive
8 deficiencies. Do you see that?

9 A. Yes.

10 Q. Are you an auditor?

11 A. No, I am not an auditor, I'm an attorney.

12 Q. Are you a CPA?

13 MR. HAEFELE: Objection, asked and
14 answered.

15 A. You asked me this question earlier. I
16 previously have responded to that question to tell
17 you that I am not a certified public accountant.

18 Q. (BY MR. MOHAMMEDI) So what qualification
19 do you have to render this opinion?

20 MR. HAEFELE: Objection.

21 A. I have laid out my qualifications
22 previously in this deposition. I'm going to respond
23 to your current question at some length since the
24 question is a very broad question.

25 I first began dealing with bank

1 want to make sure that I answer your question.

2 Q. I'm withdrawing the question. We'll move
3 on.

4 In preparing your affirmative report,
5 we -- you already stated that you did not review
6 WAMY audits; correct?

7 A. I asked for but did not receive --

8 Q. And you asked from who, the plaintiff
9 attorneys?

10 A. Yes.

11 Q. And, I mean, you -- so you asked for it
12 but you never received it; correct?

13 A. That is correct. I received it after
14 asking again, after the audit reports -- after the
15 expert reports for the defense were provided, I
16 asked for them again and got more. There were still
17 many, many, many missing reports, but I did receive
18 some reports as set forth in my supplemental
19 statement.

20 Q. Okay. How many of the approximate 825
21 projects report listed in Mark's appendix did you
22 review in preparing for your rebuttal?

23 A. I reviewed the materials that I listed in
24 my reliance report. I reviewed all the audits and
25 material that were characterized as audits that I

1 could find and was provided. If there were more, I
2 would have -- been provided more, I would have read
3 more. It's information that I consider to be of
4 great use when there's audits.

5 The audits that were provided me and I
6 asked for more did not correspond to the number
7 described in one of your expert's reports, and I
8 highlighted the difference between the number that
9 was described and what was made available to me. I
10 don't know whether there were additional audit
11 reports available or not. I am aware of the
12 representations regarding the report.

13 Q. Do you know how many financial documents
14 have been produced in this case?

15 A. I do not know, first, how you described
16 it, what the word financial means in this case.

17 Q. Have you reviewed the receipts, WAMY
18 receipts produced in this case?

19 MR. HAEFELE: Objection to form.

20 A. You'd have to show me receipts in a
21 particular area. I reviewed some receipts. They
22 were purported to be audit material that's described
23 in one of your expert reports. I went in the
24 reports and looked at all of the references to
25 material in the expert report on the auditing

1 issues, and went through those receipts.

2 Q. (BY MR. MOHAMMEDI) Have you reviewed
3 financial reports?

4 A. I beg your pardon?

5 Q. Have you reviewed financial reports?

6 A. I don't know what -- how you're defining
7 financial reports in this regard. Are you talking
8 about --

9 Q. Do you know -- yeah, do you know that
10 WAMY issues every year a financial report?

11 A. Yeah, for the -- globally? I did read
12 those.

13 Q. You read those ones?

14 A. Yes.

15 Q. And have you read project report?

16 MR. HAEFELE: Objection to form.

17 A. I described the project report --
18 material that was provided in connection with the
19 audits that were provided to me, and that's what I
20 focused on.

21 Q. (BY MR. MOHAMMEDI) And is it fair to say
22 there was limited to the audit that's WAMY expert
23 referred to; correct?

24 A. Yes, those are the only --

25 MR. HAEFELE: Objection to form.

1 A. Those are the only audits that I was
2 aware of. I requested as much audit information as
3 was available.

4 Q. (BY MR. MOHAMMEDI) Did you have the
5 appendix of reliance materials produced by Baker
6 Tilly?

7 MR. HAEFELE: Objection to form.

8 A. I don't recollect.

9 Q. (BY MR. MOHAMMEDI) Can you say -- as you
10 sit here, that you have reviewed all documents in
11 response -- in making your rebuttal that Baker Tilly
12 relied on in producing the report?

13 MR. HAEFELE: Objection to form,
14 foundation. You haven't produced those, Omar.

15 Q. (BY MR. MOHAMMEDI) They were produced.

16 MR. HAEFELE: They were not produced.

17 MR. MOHAMMEDI: Okay. So it -- we
18 agree to disagree; they were produced.

19 Q. (BY MR. MOHAMMEDI) Can you answer the
20 question?

21 A. I asked for all of the material that was
22 relied upon. I reviewed -- material that I
23 reviewed, I described in my reliance materials and
24 as I stated in my supplemental report, there was a
25 discrepancy between the number of audits that the

1 expert from Baker Tilly referred to and the number
2 that I was able to review.

3 I described with specificity in my
4 rebuttal report the audits that I was able to review
5 and what was in back of it. In some cases, those
6 were not actual audits. In some cases they were
7 financial -- unaudited financial statements. In
8 other cases they were just backup materials or
9 materials about materials, which is to say they were
10 materials that were in the general vicinity of some
11 payments that were -- that may have been made but
12 did not contain sufficient information to enable me
13 to evaluate it, but they were most certainly not
14 audits, although they were the material referred to
15 in the Baker Tilly report.

16 Q. So --

17 A. So I was left unable to replicate that
18 which the Baker Tilly report referred to based on
19 the reference pages set forth in that report.

20 Q. Is it fair to say you did not ask the
21 lawyers and the lawyers -- plaintiffs' lawyers did
22 not send you the document, financial document of
23 WAMY for you to render your opinion in your report,
24 affirmative report, as well as rebuttal; correct?

25 MR. HAEFELE: Objection to form,

1 foundation. You have not produced all of
2 those documents.

3 MR. MOHAMMEDI: Okay, we agree to
4 disagree.

5 A. It is --

6 MR. MOHAMMEDI: Just state your
7 objection.

8 A. May I respond to your question?

9 MR. MOHAMMEDI: State your objection,
10 you don't need to make statements.

11 MR. HAEFELE: You're misleading the
12 witness.

13 MR. MOHAMMEDI: It's not misleading.

14 MR. HAEFELE: It is.

15 MR. MOHAMMEDI: You're wrong.

16 Robert, you're wrong.

17 MR. HAEFELE: Well, you say I'm
18 wrong. I say I'm right. But go ahead. I'm
19 not stopping you from asking the questions.

20 Q. (BY MR. MOHAMMEDI) Go ahead.

21 A. In my -- before my initial report, I
22 asked for all audit material. As reflected in that
23 report, I received audit material for IIRO. I did
24 not receive audits for WAMY. I did not receive
25 audits from World Muslim League. I did receive the

1 annual financial reports which I found to be of a
2 very general nature and not something that I found
3 to be particularly useful.

4 And I did review that in connection with
5 my original report. After reading the rebuttal --
6 the reports from the defendants, the expert reports,
7 I became aware of additional material and asked for
8 that additional material. And when I asked for that
9 additional material, I reviewed that material and
10 provided my assessment to that material, which
11 included the fact that some of the reports that were
12 characterized as audits were not audits, some of
13 them were not verified audits. They contained a
14 variety of other deficiencies in their limitations.
15 I noted the number of jurisdictions in which there
16 were no --

17 Q. Mr. Winer, I've heard it three or four
18 times.

19 A. This is what I did. It is not consistent
20 with the question that you asked me, which is --

21 Q. The question -- the question I'm asking
22 you is specific. The question I'm asking you, and
23 I'm not going to go much more on this, because I --
24 it is clear that you have not reviewed the financial
25 documents produced by WAMY except for the ones that

1 the WAMY expert referred to. Correct?

2 MR. HAEFELE: Objection to form.

3 A. No, that's not correct. I reviewed the
4 annual reports of WAMY.

5 Q. (BY MR. MOHAMMEDI) Okay.

6 A. I did not see other audits.

7 Q. Okay.

8 A. So if there are other audits, I would be
9 happy to review them. I would be pleased to review
10 additional audits.

11 Q. It's fair to say that you, for you,
12 financial records are only audits; correct?

13 A. That's incorrect and it's a misstatement
14 of what I just testified to.

15 Q. Okay. All right. Let's move on to -- in
16 Section 2.4.1, at page 1 of your rebuttal, you state
17 that: WAMY audit did not meet the international
18 standard; correct? Do you remember that?
19 International accounting standard.

20 A. Yes.

21 Q. Does a not-for-profit organization have
22 the obligation to fulfill the international
23 accounting standard?

24 A. It's a question of how much one is going
25 to rely on an audit and whether the audit is

1 relevant to interpreting a financial report. In
2 fact, essential. Particularly in a field where
3 there is assistance being provided in a conflict
4 zone, for example.

5 So it's of great relevance and
6 importance. The fact that an audit report -- an
7 audit has not been undertaken, its significance is
8 going to be different in different circumstances.
9 In the circumstances of this case, it's very
10 important.

11 Q. Is a not-for-profit organization
12 obligated to issue a report?

13 A. It depends on the laws of the country in
14 which it's operating, and the laws of the country in
15 which it's chartered, what's it required to do.

16 Q. And are you an expert on financial
17 aspects of income in Saudi Arabia? On the standard?

18 A. It depends what question you're asking.
19 I am very familiar with the lack of controls in
20 accounting, auditing -- please let me answer your
21 question -- and money laundering controls that were
22 in place at the time that I did my investigations of
23 BCCI in the senate. I was also familiar with the
24 lack of accountability in the Kingdom of Saudi
25 Arabia as of the time I left the Department of State

1 in the late 1990s.

2 I've had recent experience in connection
3 with certain matters associated with Saudi Arabia
4 which lead me to believe that the standards have
5 changed substantially over the last 20 years, but I
6 did have representations made in the amount of
7 standards back then, and they were not standards the
8 United States government was happy about.

9 Q. (BY MR. MOHAMMEDI) Are you an expert in
10 countries implementing the international standards
11 in their own countries? Are you an expert in the
12 field?

13 A. That's what I was retained to provide
14 analysis and assistance on to the United States
15 government from 2000 through 2008 in the area of
16 money laundering, terrorist finance, and corruption,
17 vulnerability; both vulnerability, the systems to
18 combat it, the nature of the threat, and how we
19 might evaluate the effectiveness of the system
20 against the threat.

21 So where I was asked to look at that set
22 of issues in an integrated fashion for, as mentioned
23 in one of my statements, for a very large number of
24 countries around the world, including essentially
25 every country, if not every country in the Middle

1 East.

2 Q. So as you sit here, you are telling me
3 that you are an expert in maintaining of the
4 standard -- international banking standard in the
5 countries that you are referring to?

6 A. In relationship to financial crime, yes.

7 Q. What about the standard --

8 A. The --

9 Q. I'm talking about the financial standard,
10 not the crimes. I'm talking the standard of
11 implementation of banking standard in countries.

12 A. In the late 1990s, when I was in the
13 United States government, we became very focused on
14 the fact that there were essentially no controls on
15 movements of funds in most if not all -- actually
16 all at that point of the Middle Eastern states.
17 Whether they were Christian states, Muslim states,
18 or Jewish states, it was a problem across the board.
19 It was particularly a problem in countries that
20 didn't have annual taxes, that didn't have an income
21 tax.

22 And so one of the things that the
23 treasury department, the justice department, the
24 State Department focused on, in response to
25 direction from the White House, was how we start

1 ratcheting up to these standards. And that was part
2 of the work that was undertaken by the Financial
3 Action Task Force in the late 1990s.

4 After I left the government, I was asked
5 to continue to evaluate the situation in a large
6 number of countries, including all the countries in
7 the Middle East in this territory.

8 Q. And you were saying this including the
9 Saudis and the accounting standard as implemented
10 from the international standards; correct?

11 A. It would -- no, it would be too much to
12 say the accounting standard, because I did not cover
13 the details of accounting standards. I looked at
14 the overall regulatory and enforcement system, which
15 looked at financial transparency and accountability,
16 and what the controls were in place in the banking
17 system at that time. And that in turn looked at the
18 practices of businesses and sort of the general
19 level of oversight, which was poor.

20 Q. And is it fair to say you did make the
21 similar statement during the TD Bank case when you
22 said that you were an expert in implementation of
23 the accounting standard in Canada and you were
24 excluded; correct?

25 A. That's not correct.

1 The auditor is not saying that. You are
2 saying that.

3 MR. HAEFELE: Objection to form.

4 Watch your tone, please.

5 A. Is that a question, sir?

6 Q. (BY MR. MOHAMMEDI) The question, do you
7 have any evidence that food, tents, clothes went to
8 al-Qaeda instead of the needy?

9 A. This report does not allow one to know
10 what the material -- what the goods went to or even
11 if the goods that went there were as represented in
12 the report.

13 Q. And what is in your report is an
14 assumption; correct?

15 A. I couldn't understand your last --

16 Q. What's in your report is assumption.

17 You're assuming. You don't have evidence
18 to show.

19 A. I disagree with your characterization of
20 my report and of the testimony I've given.

21 Q. Okay. In your rebuttal Section 2.17.5,
22 page 14, from 1998 to 1994, Pakistan audit. You're
23 referring to that.

24 You went on and explained the categories
25 are student welfare. That is a red flag; right?

1 For supporting terrorists. Is that correct?

2 A. It's a red flag for the kind of slush
3 fund category that would enable a charity operating
4 in an area of conflict to provide support for a
5 terrorist group because it's providing support for
6 young men in an area of conflict that is foreign to
7 them. In other words, you had foreign fighters in
8 this period of time in Pakistan and Afghanistan,
9 foreign meaning they're not Pakistani and they're
10 not Afghani, and there's money being provided for
11 them for student welfare. So it's a slush fund.
12 And there are no controls. There's a complete lack
13 of controls. There's no evidence of any controls on
14 the actual uses. And that's what I'm -- my
15 statement is essentially saying.

16 Q. Do you know which is the objective of
17 WAMY?

18 Do you know the name itself, what it
19 means? The World Assembly of Muslim Youth?

20 MR. HAEFELE: Object to form.

21 Q. (BY MR. MOHAMMEDI) Do you know the
22 objective of providing student with funds to educate
23 them?

24 A. Yes, I'm -- but what -- it's more
25 difficult for me to know what's being done when the

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1 A. I -- sir, I don't agree with that
2 characterization.

3 MR. HAEFELE: Neither do I.

4 Q. (BY MR. MOHAMMEDI) So do you -- again,
5 do you have any facts showing that any money from
6 student welfare went to support al-Qaeda?

7 A. Because the controls were so weak.
8 There's no information that is available to show
9 precisely what the funds were actually spent for in
10 the field. That's the problem when you have lack of
11 controls. And the 9/11 Commission talked about this
12 and other experts have talked about this. If you
13 don't have controls on the expenditure of cash in
14 the field, or even the provision of goods, and it is
15 going to people who are training to be fighters, to
16 militants, and they cross over into terrorism and
17 it's going to people at terrorist training camps,
18 that's providing material support.

19 Now, when you don't have the controls in
20 place, it's going to be very difficult for anyone to
21 reconstruct exactly when it happened and with whom.
22 But there are data points, and the data points I go
23 into in my report. This part of my report is about
24 the material weaknesses in the controls. And so
25 what you're asking me is, do you have proof that the

1 material weaknesses in the controls caused this
2 person to engage in training, who then became a
3 terrorist and participated in the 9/11 attack. And
4 the answer is, there is no proof of that because by
5 their very nature, this funding took place, the
6 support took place without the controls that would
7 have enabled anyone to reconstruct the support that
8 led to al-Qaeda.

9 So instead, one has to rely on a lack of
10 controls and the material deficiencies in the
11 controls, the presence in the location, the nature
12 of the people who were being served, the fact that
13 they're foreign fighters rather than domestic or
14 local -- they're foreigners rather than domestic or
15 local people, and a variety of other factors as I've
16 illustrated in the report.

17 Moreover, the report goes into facts such
18 as the provision of travel documents and
19 facilitation and so on. One would then have to get
20 quite granular, and you've not asked me about those
21 granular issues.

22 Q. I did ask you to answer them, but let's
23 move on.

24 Now, rebut -- in your rebuttal 2.34-2.35,
25 page 28-29, you stated at Section 2.34, I understand

1 that WAMY's counsel in a premotion meet-and-confer
2 represented that WAMY's overseas branch officers
3 were recalcitrant and many of the offices did not
4 properly maintain office records and did not submit
5 required financial, administrative, operations, and
6 activity reports to WAMY headquarters. And you said
7 as documented in a Plaintiffs' Reply Memo of Law,
8 whose substance on that issue did not refute.

9 In Section 2.35, you quote plaintiffs'
10 counsel legal brief arguing that statement by WAMY
11 counsel allegedly considered judicial admission; is
12 that correct?

13 A. This language speaks for itself, I
14 believe.

15 Q. Are counsel legal argument evidentiary
16 basis for you to render an opinion?

17 MR. HAEFELE: Objection to form.

18 A. I see these letters as providing
19 contemporaneous records of communication that took
20 place in relationship to this case. If there are
21 other contemporaneous records regarding these
22 communications that are different from this, I would
23 be pleased to review them and add them to my report.

24 Q. (BY MR. MOHAMMEDI) Did you ask
25 plaintiffs' counsel if there was any finding to

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1 rebut their claim?

2 MR. HAEFELE: Objection to form.

3 A. I understand that this was the material
4 that was available on this issue.

5 Q. (BY MR. MOHAMMEDI) And you --

6 A. It's all in quotes.

7 Q. Okay. My question, did you ask
8 plaintiffs' counsel if there was any filing to rebut
9 their claims?

10 MR. HAEFELE: Objection to form.

11 A. I wanted to know whether this was
12 complete on these issues, and I understood that this
13 was complete off of this issue.

14 Q. (BY MR. MOHAMMEDI) Are you aware that
15 WAMY moved for and was granted reconsideration based
16 specifically on plaintiffs' argument, raised only on
17 reply motion not raised in their moving papers, that
18 WAMY's counsel supposedly stated that office
19 branches failed to provide reports to headquarters
20 and that WAMY's compliance with discovery
21 obligations relied upon those uncooperative
22 branches?

23 MR. HAEFELE: Objection --

24 Q. (BY MR. MOHAMMEDI) Are you aware that
25 WAMY moved for motion for reconsideration and was

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1 granted?

2 MR. HAEFELE: Objection to form.

3 This is --

4 A. I don't know what WAMY's counsel
5 plaintiffs -- pardon me, for the defendants, did
6 following this set of communications. If there's
7 information that's relevant, I'm happy to review it.

8 Q. (BY MR. MOHAMMEDI) Let's put Exhibit 59.
9 Motion for reconsideration.

10 (Winer Deposition Exhibit 935,
11 Defendants World Assembly of Muslim
12 Youth Saudi Arabia and World Assembly
13 of Muslim Youth International
14 Memorandum of Law in Support of
15 Motion for Reconsideration of Section
16 IV of The Court's Motion to Compel
17 Ruling, was marked for
18 identification.)

19 Q. (BY MR. MOHAMMEDI) If you go to page 3
20 and footnote 2 of the motion, it says -- so if you
21 go to: These allegations could not be farther from
22 the truth. PEC's statements mischaracterize the
23 meet-and-confer between WAMY and PEC and blindly
24 assume that branch offices were solely responsible
25 for collecting documents, without any oversight and

1 control by WAMY's counsel.

2 And the footnote states, the only chapter
3 that has ignored counsel's instructions and
4 directives is the Canada chapter.

5 And I can't read -- if you can make that
6 smaller, I can just --

7 It says -- yes, thank you.

8 So there is a footnote there that says
9 about only WAMY Canada, but that was not by the
10 other chapters. Do you see that?

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) And use it for a
13 motion for reconsideration and it was granted. Do
14 you know that?

15 A. No.

16 Q. Okay. Let me direct you to Exhibit 60 of
17 the court order.

18 (Winer Deposition Exhibit 936, In Re:
19 Terrorist Attacks on September 11,
20 2001 Opinion and Order, was marked
21 for identification.)

22 Q. (BY MR. MOHAMMEDI) If you go -- this is
23 a court order. In this -- related to this issue
24 that you raised in your report.

25 MR. HAEFELE: Objection, apples and

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1 oranges. Geez. Omar, this is --

2 MR. MOHAMMEDI: No problem.

3 MR. HAEFELE: This is way beyond the
4 scope --

5 MR. MOHAMMEDI: Not speaking
6 objection. You get to stop. You need to let
7 me --

8 MR. HAEFELE: Objection --

9 MR. MOHAMMEDI: No speaking
10 objection.

11 MR. HAEFELE: Objection, scope,
12 vague, confusing --

13 MR. MOHAMMEDI: No, stop. The
14 witness has -- has said in his report, I refer
15 to your letter and your motion, and ignored
16 the court order as well as a motion for --

17 MR. HAEFELE: But you're mixing
18 apples and oranges here.

19 MR. MOHAMMEDI: I am not. Please,
20 Robert, stop. You need to let me finish.
21 Okay?

22 MR. HAEFELE: Please finish.

23 MR. MOHAMMEDI: Thank you.

24 Can you make it smaller, please?

25 MR. HAEFELE: But really small. Like

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1 off-the-screen small.

2 MR. MOHAMMEDI: Thank you.

3 Q. (BY MR. MOHAMMEDI) Eleven of the bank
4 branches identified by the PECs are not actually
5 offices; rather work was conducted in these
6 countries from branch offices in other locations.

7 Other branch offices were not formed
8 until at least 2000, which suggests the number of
9 responsive documents will be limited. For the
10 remaining offices, WAMY has produced tens of
11 thousand of pages for each office, including
12 hundreds of financial documents.

13 As a result, WAMY has addressed the PEC's
14 concern regarding the 22 specific WAMY overseas
15 branch and the four WAMY branch offices in the
16 Kingdom. And it refers to the ECF filing. That was
17 an order for a motion for reconsideration in which
18 we make the statement that was not plaintiffs --
19 that was statement from plaintiff was not correct,
20 and the judge order and grant to WAMY the motion for
21 consideration that WAMY fulfilled its obligation to
22 search and produce the financial document. Correct?

23 MR. HAEFELE: Objection to the form
24 of the question.

25 A. In order to be able to respond to this

1 document, I would need to be able to see more than
2 just the material which you've highlighted in
3 yellow.

4 Q. (BY MR. MOHAMMEDI) Have you considered
5 this material before you rendered your opinion?

6 A. I had not seen this material.

7 Q. Okay.

8 A. And I can't evaluate it.

9 Q. Okay.

10 MR. MOHAMMEDI: How many times we
11 have from seven hours and 30 minutes?

12 THE VIDEOGRAPHER: We have ten
13 minutes left.

14 MR. MOHAMMEDI: Can we take the ten
15 minutes to just regroup and come back? Just
16 take five minutes to see if we have any
17 further questions from our side.

18 MR. HAEFELE: What was that last
19 number of that last exhibit?

20 THE REPORTER: The last exhibit was
21 936. I marked it.

22 THE VIDEOGRAPHER: We're going to go
23 off the record. 7:42 p.m.

24 (Recess taken, 7:42 p.m. to
25 7:50 p.m. EDT)

1 CERTIFICATE

2 I, DEBRA A. DIBBLE, Registered Diplomate
Reporter, Certified Realtime Reporter, Certified
3 Court Reporter and Notary Public, do hereby certify
that prior to the commencement of the examination,
4 JONATHAN M. WINER was duly sworn by me to testify to
the truth, the whole truth and nothing but the
5 truth.

6 I DO FURTHER CERTIFY that the foregoing is a
verbatim transcript of the testimony as taken
7 stenographically by and before me at the time, place
and on the date hereinbefore set forth, to the best
8 of my ability.

9 I DO FURTHER CERTIFY that pursuant to FRCP
Rule 30, signature of the witness was not requested
10 by the witness or other party before the conclusion
of the deposition.

11
12 I DO FURTHER CERTIFY that I am neither a
relative nor employee nor attorney nor counsel of
any of the parties to this action, and that I am
13 neither a relative nor employee of such attorney or
counsel, and that I am not financially interested in
14 the
action.

15
16
17
18 
19

20 DEBRA A. DIBBLE, RDR, CRR, CRC
NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
21 Certified Court Reporter

22 Dated: 8-3-2021
23
24
25

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 IN RE: TERRORIST ATTACKS) 03-MDL-1570 (GBD) (SN)
4 ON SEPTEMBER 11, 2001)
5)
6
7

8
9
10 Wednesday, July 14, 2021
11
12

13
14
15 THIS TRANSCRIPT CONTAINS
16 CONFIDENTIAL MATERIAL
17

18
19 Remote video-recorded deposition of JONATHAN M.
20 WINER, VOLUME II, held at the location of the
21 witness, commencing at 9:36 a.m., on the above date,
22 before Debra A. Dibble, Certified Court Reporter,
23 Registered Diplomate Reporter, Certified Realtime
24 Captioner, Certified Realtime Reporter and Notary
25 Public.

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1 9/11 monograph. You're familiar with those two
2 documents, sir?

3 A. Yes.

4 MR. HAEFELE: Are -- okay. Never
5 mind. Never mind. I was going to ask if we
6 could take down what was there, but you did
7 already.

8 Q. (BY MR. LEWIS) You state on page 23 at
9 Section 6.5, that you assess -- I assess these
10 conclusions of the 9/11 Commission to be correct so
11 far as they go. And then, later in the same
12 paragraph, you talk about a lack of completeness
13 which becomes evident when one reviews other
14 documents, including documents pre-dating the 9/11
15 Commission's work from the U.S. government and from
16 other governments which provide further detail about
17 the type and scope of assistance provided to
18 al-Qaeda.

19 Do you see that at 6.5?

20 A. Yes.

21 Q. What materials are you referring to that
22 the -- strike that.

23 Are you suggesting that the 9/11
24 Commission did a less-than-competent job, sir?

25 MR. HAEFELE: Objection.

1 A. No, that's a misreading of that
2 statement. You misunderstood it.

3 Q. (BY MR. LEWIS) I just asked you the
4 question. Okay. You said that they've -- that
5 they -- that there was a lack of completeness to the
6 report. Was that because of a -- of -- what is your
7 explanation as to why they lacked completeness in
8 their report?

9 MR. HAEFELE: Objection to the form.
10 Misstates the evidence.

11 A. As I testified yesterday, and I'll
12 respond to your question with an explanation again
13 of exactly what I'm meaning in this paragraph. The
14 9/11 commission did not make findings in all areas
15 of information it had and was available to it.

16 In some cases it makes references to
17 things generically than things specifically. This
18 should not be surprising. And it should not be
19 surprising because of the diplomatic sensitivities
20 between the United States and Saudi Arabia, and in
21 particular, the ongoing work that took place
22 throughout the '00s, by the United States government
23 to try to get controls on it. And the Saudi Arabian
24 government to put greater controls on WAMY, the
25 Muslim World League, and the IIRO; which there is an

1 extensive record of evidence by the United States to
2 do that and an expression of that concern that goes
3 on for many years after 9/11.

4 If you read carefully what the 9/11
5 Commission said, I'm not talking about the lack of
6 completeness of their work, I'm talking about the
7 lack of completeness of their identifications of all
8 the charities they're concerned about.

9 If you read the paragraph carefully, the
10 second sentence makes this clear. The 9/11
11 Commission did not identify all of the charities or
12 charity officials that funneled money and other
13 support to al-Qaeda. Instead, it identified a few
14 examples of the charities involved in supporting
15 al-Qaeda using the phrase "such as," which referred
16 to al Haram, rather than providing assessments about
17 each charity, about which it had evidence.

18 And so the rest of my -- the rest of my
19 sentence refers to the decision made by the 9/11
20 Commission not to provide the specifics it found on
21 WAMY, on IIRO, on Muslim World League. There are no
22 chapters of that report, that commission report,
23 whether the terrorist finance monograph by the
24 staff, which laid out all of the information the
25 government had on those charities, and explained why

1 the government had ongoing concerns about it.

2 This is not a mistake. It's not an
3 innocent gap. It's a matter of intention, in my
4 opinion. And the intention relates to trying to
5 manage this threat in the context of the overall
6 U.S.-Saudi relationship.

7 Q. (BY MR. LEWIS) Who on the 9/11
8 Commission told you that that was the intent of the
9 9/11 Commission?

10 A. That's my reading of all of the
11 information available to me. No one at the 9/11
12 Commission stated that to me.

13 Q. So you -- that's pure speculation on your
14 part; correct?

15 MR. HAEFELE: Objection to form.

16 A. No, it's not speculation on my part.
17 That's what I believe this means. I don't know of
18 any other large international charities operating
19 out of Saudi Arabia that are the three major
20 multinational charities about which the
21 United States government has expressed concerns,
22 many, many times over many, many years.

23 Q. (BY MR. LEWIS) The 9/11 --

24 A. Their absence from being identified in
25 this context when al-Haramain was, for me is

1 My question for you, Mr. Winer, is do you
2 know when Mohammed Jamal Khalifa left IIRO?

3 A. Yes, it was before -- I believe it was
4 before the Bojinka plot took place. That's my
5 memory, but I always like to confirm my memory with
6 documents, because I'm not always precise as to
7 dates.

8 Q. I'll show you a document. I represent to
9 you it was September 1993, but if you'd like to see
10 Defendant's Exhibit 2017, you're still going to need
11 to -- need the conversion of the Hijiri year into
12 the Gregorian year, but hopefully you'll accept my
13 representation from my handy Hiidra/Gregorian
14 converter.

15 Okay? Have you seen this document
16 before, sir?

17 A. No.

18 Q. Okay. I can represent to you, sir, that
19 it is a letter of resignation -- of -- it is a
20 confirmation of a letter of resignation from
21 Mr. Mohammed Jamal Khalifa dated an illegible date
22 in the fourth month of the Hijiri year, 1414, which
23 correlates to September of 1993. That is before the
24 Bojinka plot began; correct?

25 MR. HAEFELE: Objection to form.

1 Khalifa. You can accept my representation or not.

2 Does that sound consistent with your understanding?

3 MR. HAEFELE: Objection to the form.

4 A. It's possible that that's, you know, all
5 correct. I don't have those dates in front of me.

6 Q. (BY MR. LEWIS) Ramzi Yousef came in the
7 summer of 1994 and left in approximately September
8 of 1994 as well, which is after Mohammed Jamal
9 Khalifa.

10 My question for you is whether accepting
11 my representation for what it's worth, do you have
12 any evidence of any support by the International
13 Islamic Relief Organization of Khalid Sheikh
14 Mohammed in or around 1994 -- strike that.

15 At any time.

16 MR. HAEFELE: Objection to the form.

17 A. The relationship between Mohammed Jamal
18 Khalifa, KSM, Khalid Sheikh Mohammed, Bin Laden, and
19 Ramzi, were complicated. Who is imitating whom, who
20 is working with whom, who is funding whom, and when,
21 all require a lot of focus and precision to be able
22 to talk through. I'm not prepared to go into those
23 relationships in-depth at this time in the absence
24 of having documents in front of me because I was not
25 asked precisely this question.

1 What I can say in order to answer your
2 question is that al-Qaeda worked with an
3 infrastructure that was built in part by Mohammed
4 Sheikh Khalifa in his activities in the Philippines
5 and Indonesia. The capabilities he built were in
6 turn part of what made it possible for Ramzi Yousef
7 to then go ahead with the Bojinka plot. The Bojinka
8 plot in turn provided a template for the 9/11
9 attacks.

10 Looking at the ways in which the capacity
11 to launch that strike was created is a big task, and
12 it is very much part of the framing necessary to
13 understand what happened. I've just articulated a
14 portion of it, but it's incomplete. To be able to
15 articulate a better portion of it, I would have to
16 work through the Bojinka plot in great detail, look
17 at the activities that were undertaken by Mohammed
18 Jamal Khalifa in Indonesia with one terrorist group,
19 in the Philippines with another terrorist group, the
20 capacities he built there, and then look at the
21 degree to which Ramzi Yousef then relied on it, took
22 advantage of it.

23 Just being able to go there was in part
24 because al-Qaeda had formed these relationships
25 there during the time that Mohammed Jamal Khalifa

1 was undertaking work for IIRO, thus accounting for
2 IIRO's later designation by the United States and
3 the UN.

4 There's more to say on this, but I
5 don't -- I'm trying to respond to your question.

6 Q. (BY MR. LEWIS) Well, I'm -- that was --
7 I understand your theory, but my question for you
8 is, do you have any evidence that IIRO provided any
9 support, financial or otherwise, to Ramzi Yousef or
10 Khalid Sheikh Mohammed in connection with the
11 Bojinka plot?

12 MR. HAEFELE: Objection to form,
13 asked and answered.

14 A. It depends on --

15 MR. LEWIS: It was not asked and
16 answered.

17 A. Do you want me to respond or not?

18 Q. (BY MR. LEWIS) My question is do you
19 have any evidence that IIRO provided financial or
20 other support in connection with the Bojinka plot to
21 Yousef or Mohammed?

22 A. I believe I've answered that question.

23 MR. HAEFELE: Same objection.

24 Q. (BY MR. LEWIS) Well, we'll just have to
25 leave it there and the Court can decide.

1 considered him reliable, and you said yes. So can
2 we move on?

3 MR. HAEFELE: Objection. Misstates
4 the evidence.

5 Q. (BY MR. LEWIS) You are aware that Abuza
6 has written that a charity that Mohammed Jamal
7 Khalifa set up separate from IIRO, called IRIC, was
8 the primary funding mechanism for the Bojinka plot.
9 Have you read that in Zachary Abuza's writing?

10 A. I would have to look at the paragraph
11 that you've cited.

12 Q. Okay, let's do that. Document G in the
13 queue should be Exhibit 940.

14 (Winer Deposition Exhibit 940,
15 Project MUSE, Funding Terrorism in
16 Southeast Asia: The Financial Network
17 of Al Qaeda and Jemaah Islamiya, was
18 marked for identification.)

19 Q. (BY MR. LEWIS) This is a document that
20 you cite in your report; correct?

21 A. Yes.

22 Q. I'm going to direct your attention to the
23 bottom -- the last paragraph that begins "perhaps."
24 Which you don't cite in your report, and I'll read
25 it.

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1 Perhaps the most important charity
2 established by Khalifa was the little known
3 international Relations and Information Center
4 (IRIC), in parentheses, which engaged in numerous
5 activities for the most part philanthropic:
6 Livelihood projects, job training, paren,
7 (carpentry, fish farming, farming), closed parens,
8 orphanages, Islamic schools and other social work.
9 The IRIC was also the primary funding mechanism for
10 Khalid Sheik Mohammed, Ramzi Yousef, and Wali Khan
11 Amin Shah's attempt to blow up American jetliners in
12 early 1995 in what was known as Oplan Bojinka.

13 Do you see that?

14 A. No. I don't see it. It's not up. I
15 couldn't find it in the documents either.

16 TRIAL TECHNICIAN: Could you direct
17 to what page you were referencing?

18 Q. (BY MR. LEWIS) Yes, the bottom of
19 page 175.

20 A. Which exhibit, please?

21 Q. It's the exhibit that's on the screen,
22 which is 940.

23 MR. HAEFELE: 940.

24 A. Well, the exhibit on the screen only has
25 a cover page, that I can see. And if you'd allow me

1 to look at it in the GolkowRemote, it's what
2 document, again, please?

3 Q. (BY MR. LEWIS) 940 is the document.
4 It's a document that you cite in your report
5 multiple times -- and I'm referring you to the
6 bottom of page 175 to a portion that you did not
7 cite.

8 Do you want to review the whole document,
9 Mr. Winer?

10 A. No.

11 TRIAL TECHNICIAN: It is page 8 of
12 the document, Mr. Winer, that's in the
13 GolkowRemote.

14 A. Yes, I see the language that you're
15 pointing me to.

16 Q. (BY MR. LEWIS) Okay. Do you have any
17 knowledge of Mohammed Jamal Khalifa setting up
18 separate charities including the IRIC?

19 A. Only what's reported here by Mr. Abuza.

20 Q. Do you think it's relevant to your
21 opinions that a different entity funded the Bojinka
22 plot or not?

23 A. Might be relevant. I'd have to look at
24 the relationship of that entity to the other
25 entities, the source of funding for that entity, and

1 THE VIDEOGRAPHER: Going off the
2 record at 12:52 p.m.

3 (Recess taken, 12:52 p.m. to
4 1:32 p.m. EDT)

5 THE VIDEOGRAPHER: Back on the record
6 at 1:32 p.m.

7 Q. (BY MR. LEWIS) Okay. Mr. Winer, I hope
8 you're revived, and we can finish up.

9 A. Let's go forward.

10 Q. Good. When we broke, we were talking
11 about a gentleman named Mahmoud Jaballah.

12 A. Yes. I have refreshed my recollection on
13 that case.

14 Q. Did you look into it during the break?

15 A. Yes, I reread the Canada court opinion
16 that's referenced in my testimony -- in my expert
17 report.

18 Q. Which one, the 2001 or the 1991?

19 A. The one that's referenced in my report,
20 which I believe to be -- actually, a 2006 case, but
21 maybe that's not the one referenced. In any case, I
22 remember it now.

23 Q. Good. You state at 7.7.3.2 that
24 Mr. Jaballah was employed by IIRO in Canada when he
25 was arrested in 1999 and again in 2001 for belonging

1 to Al Jihad.

2 Having reviewed the materials, do you
3 wish to amend?

4 A. Yes.

5 Q. Okay. He was never employed by IIRO in
6 Canada, was he?

7 A. He was employed by IIRO in Pakistan.

8 Q. From 1991 until 1994; correct?

9 A. In Peshawar, that's correct.

10 Q. I think it was -- not in Peshawar, but he
11 was employed at a school teaching biology; right?

12 A. That's correct.

13 Q. And when he was arrested in 1999, he was
14 a janitor at a Jewish community center in Toronto;
15 correct?

16 A. I don't recollect what he was doing in
17 Canada.

18 Q. Would you like to see documentation of
19 his employment -- relating to his employment at a
20 Jewish community center in Canada or will you simply
21 take my word for it?

22 A. Let's go to the documentation, just so we
23 can review it together.

24 Q. This is from the 1999 decision which is
25 cited by the UN report. It is document L, Exhibit

1 Q. And the basis for your saying that he was
2 an -- by the way, you are aware that we've produced
3 extensive employment records in this case, and there
4 is no Syed Abu Nasir in the employment records. Are
5 you aware of that?

6 MR. HAEFELE: Objection.

7 A. I am not aware of what employment records
8 have been produced or whether all IIRO employees use
9 their real names at all times or whether there are
10 pseudonyms that are sometimes used when they go into
11 terrorist activity. I do know sometimes terrorists
12 do use a pseudonym for terrorist activity; that is
13 not uncommon.

14 Q. (BY MR. LEWIS) I'm asking --

15 A. I understand your representation.

16 Q. -- the question. I'm not asking you
17 about terrorist names. I'm asking have you reviewed
18 any employment records produced by IIRO in this
19 case?

20 A. No.

21 Q. Okay. Mr. Nasir, it says he received
22 terrorist training in Afghanistan and was then
23 implicated in terrorist plots to bomb American
24 consulates in Madras and Calcutta.

25 Let's talk about the Madras and Calcutta

1 plots, and you cite at footnote 153, a New York
2 Times article, "Pakistan Denies Role in Plotting
3 Bombings in India." And you state, quite
4 forthrightly, that the article itself, when you
5 refer to it, doesn't say anything about Syed Abu
6 Nasir; correct?

7 A. There are two footnotes. There is a
8 footnote relating to him, and then there is a
9 separate footnote relating to the terrorist plots to
10 bomb the American consulates. I would have to go
11 back to each of them to determine what they covered.

12 Q. Okay. Your -- but you've reviewed the
13 New York Times article that you cite at footnote
14 153, and you agree that at least the version that
15 the New York Times maintains doesn't mention a Syed
16 Abu Nasir; correct?

17 A. I have not reviewed it in the last few
18 days. I'd have to go look at it.

19 Q. Well, you say: I find this information
20 plausible, but I do not know the sources of
21 Emerson's information; the electronically maintained
22 cites provided in his testimony from the New York
23 Times do not cover the Nasir-Al-Gamdin --

24 A. Now I know what you're talking about,
25 sure. Right, I went and looked for it.

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1 Q. And you didn't find it, did you?

2 A. No.

3 Q. I didn't either.

4 And then you quote Senate testimony from
5 Steven Emerson. And Emerson says that Nasir started
6 with IIRO in Thailand and then was sent to Lahore in
7 1994. And you say, again, quite forthrightly: I do
8 not know the sources of Emerson's information.

9 A. That's right. When I looked at it, I
10 wanted to see what the basis was, and didn't find
11 it.

12 Q. Do you know Steven Emerson?

13 A. Yes. I don't know him well, but I know
14 who he is.

15 Q. Are you aware, sir, that there was no
16 IIRO office in Lahore, Pakistan in 1994 or any other
17 time?

18 MR. HAEFELE: Objection to form.

19 A. I don't know whether there was or was
20 not.

21 Q. (BY MR. LEWIS) Do you have any
22 information about whether IIRO was sponsoring any
23 training that this Mr. Nasir may have received?

24 A. I provided the basis for the information
25 that I have in this footnote.

1 A. If by that you mean were subject to the
2 scrutiny of a criminal trial, it was not -- they
3 have not been part of a criminal trial, so far as I
4 know.

5 Q. And it was reviewed by three military
6 officers at a proceeding where the defendant had no
7 lawyer; correct?

8 A. I'm not positive about whether he had a
9 lawyer or not there, but I'm -- certainly whether or
10 not he had a lawyer, this is a finding that they
11 made.

12 Q. And the findings that were made have
13 often been found to be not accurate because they
14 were -- it was taken from all kinds of sources. You
15 know that about Guantanamo, don't you, Mr. Winer?

16 A. I think --

17 MR. HAEFELE: Objection to form.

18 A. I think you have summarized Guantanamo
19 Bay in an incomplete way, and I'm not prepared to
20 make statements about Guantanamo across the board.
21 I think you have to look at it case by case.

22 Q. (BY MR. LEWIS) You refer to al-Hasan
23 having a cover story for his time with al-Qaeda that
24 he was in Afghanistan as a relief worker for the
25 Islamic Relief Organization and he received the

1 position from the head of the Islamic Relief
2 Organization.

3 Now, are you aware, sir, that Samir
4 al-Hasan was never an employee of IIRO?

5 MR. HAEFELE: Objection to form.

6 A. I can't assess that.

7 Q. (BY MR. LEWIS) Well, you call it a cover
8 story. Do you think that a -- someone makes up a
9 cover story that they had a job for IIRO, that that
10 implicates IIRO somehow?

11 MR. HAEFELE: Objection to form,
12 foundation.

13 A. It depends how the documentation was that
14 was related to it.

15 Q. (BY MR. LEWIS) Well, do you have any
16 other information to suggest that he was an employee
17 of IIRO?

18 A. I have the information that was in the
19 Defense, and that's it.

20 Q. And the Department of Defense dossier
21 doesn't say that he was; it just says that he said
22 he was; correct?

23 A. It says exactly what the sentence shows.
24 It says that his name and aliases were found in
25 al-Qaeda affiliated documents. He was recruited by

1 a known al-Qaeda member who facilitated his travel
2 to Afghanistan. He fought U.S. and allied forces,
3 and his cover story was he was in Afghanistan as a
4 relief worker for the Islamic Relief Organization,
5 that he received the position. It's not clear what
6 the relationship of the cover story is to what his
7 relationship to the organization was.

8 Q. You have no evidence to suggest that he
9 had any relationship with the organization, do you?

10 A. I can't interpret the statement beyond
11 what's in the Guantanamo materials.

12 Q. Okay. Let's move on, then, to Bosnia.

13 And I'd like to refer you to 12.7.2.2.
14 And on page 88 of your statement.

15 I'm sorry, 12.7.2. And you say: The
16 trail of IIRO activities in support of Islamic
17 militants, fighting, and al-Qaeda in Bosnia,
18 includes.

19 And then your first entry is: A
20 handwritten document found as a result of a raid in
21 Bosnia from the late 1980s, of a meeting attended by
22 Secretary General of MWL and bin Laden
23 representatives, and that meeting took place in
24 Afghanistan; correct?

25 A. I don't recollect where the meeting took

1 now a lieutenant colonel.

2 A. Yeah, I've not seen this article before,
3 as I said to you, so I did not realize that he is
4 the person you say that he is. We can go back and
5 look at it and absorb that, but I want more time to
6 evaluate this, particularly given that the FBI agent
7 that's being relied on here for certain propositions
8 is also being said in the same article to have made
9 untrue allegations. Which leaves me uncertain as to
10 the whole.

11 Q. I don't think it says untrue, but I don't
12 need to debate --

13 A. As untrue, but Soufan added an untrue
14 allegation of his own.

15 Q. Okay. It may be inaccurate, but it's not
16 suggesting that it was knowingly false, is it?

17 A. The article says it's untrue.

18 Q. Okay. Let's go to OFAC designations.
19 And I just want to understand your experience,
20 Mr. Winer. When you were in government in the '90s,
21 did you have any experience -- you had no
22 experience, of course, with EO 13224 because it was
23 not in effect; correct?

24 A. Correct.

25 Q. And did you have experience with

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1 terrorist designations in the '90s?

2 A. That depends what you mean by experience
3 with terrorist designations.

4 I was in discussions about the use of
5 IEEPA, the International Emergency Economic Powers
6 Act, the basis for all UN sanctions, for U.S.
7 sanctions in particular, pretty much other than the
8 Trading With the Enemy Act used for Cuba sanctions
9 at the time, and how they would apply to groups for
10 particular types of behavior. And in this regard,
11 there was discussion of use of it against terrorist
12 organizations and then we were in turn looking at
13 the use of it for terrorist organizations for using
14 it for serious criminal organizations.

15 So I was involved in a number of
16 discussions, moderated typically by the White House,
17 with the participation of officials from the
18 departments of treasury, justice, and state,
19 regarding the designation process.

20 And what we would have to go through in
21 order to do further -- do new category of
22 designations for organized crime. And that in turn
23 was to be modeled after the work that had been done
24 on the terrorist activities.

25 So I had to look at the kinds of things

1 that were being used in relationship to the
2 terrorists in order to make recommendations for
3 organized crime figures that we might designate.
4 There was discussion of particular candidates for
5 designation on the organized crime side that I
6 participated in, the creation of prototype packages,
7 and the action did not move forward.

8 Q. So is it your testimony that you never
9 participated in designation -- the process that
10 resulted in the designation of a terrorist; is that
11 right?

12 A. That's correct.

13 Q. And then you returned to government in
14 2013 and 2016, and you had responsibility with
15 respect to MAK and then later with respect to Libya;
16 correct?

17 A. Correct.

18 Q. Did you participate in any designation
19 processes with respect to terrorism in the period of
20 2013 to 2016?

21 A. Yes.

22 Q. Did they involve Libya or the MAK or did
23 they involve other entities?

24 A. They involved entities in the Middle
25 East, which extended beyond Libya. That's really

1 all I'm free to say.

2 Q. Did they extend to Iran?

3 A. I was not involved in terrorist
4 designations relating to Iran.

5 Q. Were you involved in terrorist
6 designations in relation to Saudi Arabia?

7 A. No.

8 Q. I presume you did not participate in the
9 designation process with respect to the two IIRO
10 offices in Indonesia or the Philippines; correct?

11 A. I was not in the U.S. government at the
12 time those took place and did not participate.

13 Q. I'd like to move on to the audit process.
14 You said yesterday that you wanted to see as many
15 audits as possible in preparing your report. Do you
16 recall that testimony, sir?

17 A. Yes.

18 Q. And plaintiffs -- you referred to three
19 audits in your -- in your report; is that correct?

20 A. I would have to go back to the report to
21 know precisely how many I referred to.

22 If you can take me to the paragraph, that
23 would be helpful.

24 Q. I believe you discussed a Pakistan audit;
25 correct?

1 A. Are we talking about my first report or
2 my second report?

3 Q. That's what we're talking about, your
4 first report, yes.

5 A. You'd have to take me to the section at
6 this point.

7 Q. Okay. In 10.1 on page 67: The three
8 audits of IIRO branches I have reviewed (one of
9 which included only a few pages out of the entire
10 audit) found exactly these types of issues.

11 Does that refresh your recollection, sir,
12 that in your initial report --

13 A. Yes.

14 Q. -- you looked at three audits?

15 Are you aware, sir, that IIRO produced,
16 prior to the preparation of your report, indeed
17 before you -- I believe you were even retained, more
18 than a dozen other audits?

19 MR. HAEFELE: Objection to the form,
20 foundation.

21 A. I don't know what was produced when. I
22 only know what I asked for and what I reviewed.

23 Q. (BY MR. LEWIS) Did you get an audit from
24 Chad?

25 A. I don't believe so.

1 Q. Did you get an audit from Nigeria?

2 A. I don't believe so.

3 Q. Did you get an audit from Sudan?

4 A. I don't believe so.

5 Q. Did you get an audit from Ethiopia?

6 A. I don't think so.

7 Q. Did you get an audit from Azerbaijan?

8 A. I don't believe so.

9 Q. Would those have been useful to you in
10 preparing your report?

11 MR. HAEFELE: Objection to the form.

12 A. I would like to see any and all audits
13 undertaken by IIRO branches for the period relevant
14 to the litigation.

15 Q. (BY MR. LEWIS) Okay. You discuss
16 financial and accounting deficiencies at Islamic
17 charities. You are aware, are you not, that
18 financial and accounting deficiencies are endemic in
19 charities, not just Islamic charities but charities
20 all over the world; correct?

21 A. It is a problem in various types of
22 charities, not all charities everywhere, but I've
23 been retained in connection with some, as I
24 testified earlier, domestic and some foreign.

25 Q. Let's take a look at your note 105. On

1 time.

2 I'd like to direct your attention to
3 page 91 of your report, in Section 12.8.3. And you
4 say: One concrete example of the support that IIRO
5 provided for Chechen fighters in this period is
6 provided in a letter from the Muslim World League
7 Secretariat General to IIRO General Supervisor in
8 Jeddah, dated in both the Islamic and western
9 calenders as Dhul Hijja -- pardon my
10 pronunciation -- 1415 Hijiri, and 2-5-1995.

11 Now, I would like to show you what is in
12 the queue as document W, which I will the ask the
13 reporter to mark as 946, and I'd ask you to look at
14 the -- it's two letters. I'd like to ask you to
15 look at the second letter, please. And ask you a
16 simple question, which is: Is that the letter that
17 you are referring to as a concrete example of the
18 support that IIRO provided for Chechen fighters?

19 (Winer Deposition Exhibit 946,
20 5-30-1995 letter to Mr. Fawzi Rushdi
21 al-Athama, was marked for
22 identification.)

23 Q. (BY MR. LEWIS) No, I'm sorry, page 1.

24 I'm sorry.

25 Could you -- I'm sorry, Brian, could you

1 move to page 2, please?

2 Is page 2 the letter that you are
3 referring to --

4 A. Yes.

5 Q. Okay. I'm going to ask you, then,
6 whether you are aware of the IIRO's responsive
7 letter, which is page 1 of the document?

8 And I will direct your attention to the
9 second paragraph.

10 A. This says the money was spent for
11 non-military means, which is good.

12 Q. Good. Were you aware of that?

13 A. No, I had only seen the other page. I
14 had not seen this page. The other page -- if we can
15 go back to the other page, please. Says it's for
16 the aid of the Chechen mujahideen. Mujahideen means
17 fighter. That's what it says.

18 Q. And I'm --

19 A. That's what it says, and that's the
20 document that I reviewed on how to deliver monetary
21 aid to them.

22 This page 1, which we are now in, which
23 we should now go back to, it's a very small amount
24 of money in any case, as I said in my statement,
25 says that the check was deposited for the purchase

1 of medications or foodstuffs for the benefit of
2 Chechen refugees and the organization of
3 jihad-supporting activities and only provides relief
4 for the refugee women and children.

5 I can't account for the difference
6 between two letters. Let's go back to the other
7 page, please.

8 Thank you. That's very helpful.

9 What is the date on -- the respective
10 dates of the two letters, please? The first is
11 something that refers to April 12th, 1995. The
12 second corresponds to May 30th, 1995.

13 So assuming this is the same amount,
14 which it appears to be, it looks to me like the
15 letter two -- and I'm trying to make sure that I've
16 got this right.

17 The Muslim World League from -- this from
18 World League to IIRO says: Here it is for the muj;
19 and the IIRO writes back and says it was provided
20 to -- for medications or foodstuffs for refugees.
21 So that clears up that issue.

22 Q. Good. I'd like to move on to another
23 issue that pertains to your work at APCO.

24 Are you still at -- you still have a
25 relationship with APCO; is that correct?

1 includes transnational crime and terrorist finance,
2 foreign policy on U.S. relationships, geopolitical
3 security issues, and subsets within those broader
4 fields; is that correct?

5 MR. HAEFELE: Objection to from.

6 A. Yes, including regulation enforcement
7 issues associated with financial institutions and
8 charities operating cross border. Essentially if
9 it's things that cross borders and involves
10 regulation or enforcement, national security, law
11 enforcement issues, that's what I've spent my career
12 on over the last 35 years. I think that's about
13 right. 35 years, yeah.

14 Q. (BY MS. PRITSKER) Thank you. Discussing
15 executive order 13224, can you please list each
16 instance in which you were involved in the
17 designation or de-designation process under
18 executive order 13224?

19 A. That order, I don't believe -- I can't
20 remember the year that order first was made, but I
21 was not involved in the designation process. I was
22 involved in some delisting matters on behalf of
23 private sector clients, but I can't be more specific
24 with those because they're client confidential.

25 In the -- my most recent iteration in

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1 government, I was involved in discussions of various
2 designations under other executive orders but not
3 that one.

4 Q. How many delisting matters were you
5 involved in in seeking delisting under executive
6 order 13224?

7 A. Two.

8 Q. Is there a basis for not providing
9 additional information regarding those two delisting
10 applications pursuant to executive order 13224 based
11 on privilege?

12 A. Yes.

13 Q. Was your representation in those two
14 instances known to the U.S. government?

15 A. In what -- probably, but I'm not certain.
16 I'm not certain.

17 Q. How is it privileged if it's possible
18 that the U.S. government knew about your
19 representation of those two parties in seeking
20 delisting under executive order 13224?

21 A. I'm not in a position to disclose any
22 information relating to those investigations. It
23 would be a breach of my obligations as an attorney
24 and I'm not going to do it.

25 Q. What obligations as an attorney?

1 A. To maintain client confidences. And as I
2 said, I'm not sure whether the U.S. government was
3 aware of my particular engagements or not, but in
4 any case, I am not in a position to disclose them
5 and I will not.

6 Q. Mr. Winer, were those two clients that
7 you represented in connection with seeking a
8 delisting under executive order 13224 foreign
9 clients?

10 A. One case was a foreign client. The other
11 was a domestic client.

12 Q. For the foreign client, did you register
13 under the Foreign Agent Registration Act known as
14 FARA?

15 A. No.

16 Q. And you have no experience in the process
17 for designation or de-designation under executive
18 order 13224 during your time in the U.S. government;
19 is that right?

20 A. No, that's not correct.

21 Q. Under what instances were you involved in
22 the designation or de-designation of a party under
23 executive order 13224 during your time in the U.S.
24 government?

25 A. I was not directly involved relating to

1 individual entities, but that does not mean I had no
2 experience.

3 Q. Mr. Winer, what was your experience in
4 the process for designation and de-designation under
5 executive order 13224 during your service in the
6 U.S. government?

7 A. As I previously testified, I had many,
8 many, many interagency discussions of how one would
9 approach designations in the area of organized
10 crime. I had discussions with how we were doing it
11 in connection with the terrorist designations. For
12 comparison, I became familiar with what the U.S.
13 government did to go through the designation
14 process.

15 More recently, in the period 2013 to
16 2017, I participated in discussions of designations
17 of individuals and entities, some of whom were
18 actually designated under other executive orders,
19 which is the same process.

20 Q. Mr. Winer, in your participation in the
21 interagency's discussions of how one would approach
22 designations in the area of organized crime and also
23 in the context of terrorist organizations, that was
24 during your time in the State Department that ended
25 in 1999; is that right?

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1 A. No.

2 Q. When were these interagency discussions
3 in which you discussed the approach of designations
4 for --

5 A. In both --

6 Q. Mr. Winer, I ask that you please wait
7 until I finish my question. I will work on not
8 interrupting you if you please don't interrupt me as
9 well. Thank you.

10 When did you have interagency discussions
11 related to the designation process related to
12 organized crime and terrorism? When did those
13 interagency process meetings that you've discussed
14 multiple times occur?

15 A. They occurred in 1998, 1999, that period,
16 roughly. Might have been 1997 as well, but I can't
17 recall it.

18 I also took part in 2000 -- roughly 2014,
19 '15, '16.

20 Q. And did any of those interagency
21 discussions in approximately 1997 through 1999 and
22 approximately 2014 to 2016 involve designations or
23 de-designations under executive order 13224?

24 A. No.

25 Q. And you've only represented two clients

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1 with respect to seeking a delisting pursuant to
2 executive order 13224; is that right?

3 MR. HAEFELE: Object as to the form.

4 A. I've described my private practice
5 experience in this territory. Now that I understand
6 where the -- what you're doing with your questions,
7 I would like to add my area of expertise. I was
8 involved in both periods in understanding thoroughly
9 the process that the United States government does
10 for designations.

11 Had to understand that in order to be
12 proposing, as I did, potential candidates for
13 designation in both periods, and in both periods I
14 was part of interagency discussions about
15 designating particular entities under various
16 executive orders.

17 Q. (BY MS. PRITSKER) Thank you, Mr. Winer.
18 I'm going to object to your response as
19 nonresponsive and move to strike that. I do ask
20 that you listen to my questions and answer them
21 exactly as I've asked them.

22 You have only represented two clients
23 with respect to seeking a delisting from OFAC
24 pursuant to executive order 13224; is that right?

25 MR. HAEFELE: Objection to form.

1 A. That's what I recollect.

2 Q. (BY MS. PRITSKER) And when were those --
3 when did you represent those two clients who were
4 seeking a delisting from OFAC pursuant to executive
5 order 13224?

6 A. During my legal practice at Alston &
7 Bird.

8 Q. Mr. Winer, you suggested that the process
9 for designation and de-designation is similar under
10 all sanctions programs; is that right?

11 A. Yes.

12 Q. How do you know that it is a similar
13 process for designation and de-designation under all
14 of the different sanctions programs that OFAC
15 administers?

16 A. Because of the experience I've had in
17 discussing the designation process over many years
18 with people who were more directly involved in it on
19 a regular basis than I was in terms of the
20 particular candidates and entities. It's something
21 that I've been immersed in going back to the 1990s.

22 Q. Can you name all the persons with whom
23 you had these discussions that led to your knowledge
24 of the designation and de-designation process that
25 OFAC administers?

1 A. Can I name all of them? Is that your
2 question?

3 Q. Yes, to the best of your recollection.

4 A. No, I can't name all of them.

5 Q. Can you name any persons with whom you
6 had discussions regarding the OFAC's process for
7 designations and de-designations?

8 A. Sure. Dan Glaser, at the department of
9 the treasury. Jodi Myers at the department of the
10 treasury. Dan pre -- let me think of what his last
11 name is. He was the head sanctions guy at treasury.
12 Dan -- his last name is not coming to me right now.
13 Something like Freedman, but that's not quite right.
14 And he was in charge of sanction programs. Howie
15 Wachtel, who worked on sanction programs at State in
16 the Obama administration. Dick Clarke at the NSC.

17 That would be a partial group. That
18 would be a partial group because I was in a lot of
19 interagency meetings discussing these issues.

20 Q. Is there anyone else that you can recall
21 sitting here today that you had discussions
22 regarding OFAC's designation and de-designation
23 process with?

24 A. Not at the moment.

25 Q. Was the process for designation and

1 de-designation ever different across any of the
2 sanctions programs to your knowledge?

3 A. Well, there's more than one process, so
4 the general approach is the same. The details may
5 be different -- be different, depending on the
6 circumstances and the particular program. OFAC is
7 constantly varying what it allows by license, what
8 it doesn't allow. And so to say it's always the
9 same in every instance is not quite right, but the
10 basic process is the same.

11 There was a period of time, Juan Zarate
12 is another person I've discussed this with in the
13 past. There was a period of time right after 9/11
14 where the process was not as complete as it became
15 very soon thereafter, which Mr. Zarate wrote about
16 in his book.

17 Q. Which book did Juan Zarate talk about how
18 the process was not -- was not complete after 9/11?

19 A. I think he said in -- the book was
20 Treasury's War.

21 This is for a short period of time in the
22 immediate aftermath of the attack.

23 Q. Did you find Juan Zarate to be credible
24 on that point in the immediate aftermath of 9/11
25 that the OFAC designation process was not as

1 complete?

2 A. I find Juan Zarate generally to be
3 credible. You'd have to look at exactly what he
4 wrote to get exactly right what his views were on
5 the process. He was there first-hand at the time.
6 I was not.

7 Q. Mr. Winer, do you believe that the
8 withdrawal of designation under executive order
9 13224 should never be considered an exoneration
10 unless the U.S. government has publicly stated that
11 the original listing was undertaken in error?

12 MR. HAEFELE: Objection to form.

13 A. The way in which your question is phrased
14 makes it difficult for me to answer. It certainly
15 is not an exoneration. It is a reflection of a
16 national security decision made by the United States
17 government that the listing is no longer necessary
18 to protect the national security of the
19 United States. In my report I provide a detailed
20 explanation for this issue with regard to the
21 Mujahedin-e Khalq.

22 Q. (BY MS. PRITSKER) It's possible that
23 OFAC can delist a party in light of facts that now
24 show the designation was not warranted in the first
25 instance; is that right?

1 U.S. government entity had made a statement
2 regarding the reason for the delisting. It might be
3 something that was done in coordination with other
4 countries, as a result of other countries making a
5 delisting decision at the same time, to act in
6 accord without any of them making a statement as to
7 why.

8 There are a variety of possibilities, so
9 your question, which is a very generic question,
10 was -- and was making a very broad blanket
11 statement, is not one that I can respond to with a
12 simple "yes" or "no." It depends on a variety of
13 things, in addition to what OFAC might say.

14 Q. Mr. Winer, have you ever performed any
15 systematic review of OFAC's de-designations?

16 A. I have not.

17 Q. Do you know what percentage of OFAC
18 de-designations are based on factual error?

19 A. I'm not aware of such a study. No, I do
20 not.

21 Q. Do you have any opinions about the UN
22 Security Council's sanctions program for purposes of
23 this case?

24 A. I've laid them out in the course of my
25 opinion.

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1 Q. What are those opinions related to the UN
2 Security Council's sanctions program?

3 MR. HAEFELE: Objection to form.

4 A. If you look at my report from page 134 to
5 136, I think it's basically two pages, it lays out
6 the basic -- my basic views on the process of
7 designation and de-designation.

8 I've worked with the UN at different
9 times in connection with these types of processes,
10 most recently in connection with my work in Libya,
11 where it has no desig -- no actual designation by
12 the UN but is monitoring compliance with UN Security
13 Council resolutions. And I have some sense of the
14 process, which is a process that involves people
15 from multiple countries evaluating evidence and then
16 making recommendations for how the UN should respond
17 in response to evidence.

18 Q. (BY MS. PRITSKER) Mr. Winer, I'm going
19 to object to some of your answer as nonresponsive to
20 my question. I did just ask what your opinions
21 related to the UN Security Council sanctions program
22 was, not what the basis of those opinions were.

23 Since we went into that, do you
24 personally have any experience with the UN sanctions
25 undertaken pursuant to UN resolution 1267?

1 A. I was not involved in those. They took
2 place following my departure.

3 Q. And do you have any experience with the
4 UN's withdrawal of sanctions?

5 A. Again, I was not involved with them
6 directly. But I have knowledge of them; I do not
7 have experience with them.

8 Q. For any given removal of sanctions, if
9 the UN does not identify its reason, it's not
10 possible to know the true reason for the UN's
11 removal of sanctions; is that right?

12 A. It may be right in some cases; it may not
13 be right in other cases.

14 Q. Is it possible that the UN removes
15 sanctions in light of facts that now show that the
16 original designation was not warranted in the first
17 instance?

18 A. It may be possible in some cases, but
19 it's not necessarily going to be the reason. The
20 main reason why the designations are removed is
21 because they're no longer found to be necessary for
22 the purpose for the designations are made, rather
23 than a finding of error.

24 Q. Mr. Winer, in your affirmative report you
25 state that Maktab Al-Khidamat, a/k/a MAK, was an

1 Q. (BY MS. PRITSKER) I'm going to restate
2 my question. Mr. Winer, can you please describe the
3 methodology that you applied in this case?

4 A. Yes.

5 MR. HAEFELE: Objection, asked and
6 answered.

7 A. I was asked a series of questions. I was
8 just going through the questions that I was asked.
9 Because my methodology began with the questions. In
10 order to answer the questions, I looked at as much
11 of the material that was made available to me as I
12 could relating to this case. I looked at primary
13 source documents. I looked at books about this
14 matter. I looked at academic articles. I looked at
15 statements by the United Nations. I looked at
16 statements by treasury officials. I looked at my
17 own prior testimony. I looked at the testimony of
18 other people, including many people that I knew.

19 And in looking at all of that, I
20 systematically worked to build out what the answers
21 to those questions would be, based on the record
22 available to me, which included those types of
23 documents and sources as well as my own experience
24 in the United States government during this period
25 of time, in which I was having regular contact with

1 that response. I'm happy to supplement that
2 response if you would like.

3 Q. I'd like to go back briefly to your
4 discussion of your knowledge of the UN sanctions
5 process. Can you describe for me what are all the
6 bases for your knowledge of the listing and
7 delisting process under UN sanctions pursuant to UN
8 resolution 1267?

9 A. Sure.

10 In conjunction with my work back in the
11 '90s, and in conjunction with my work more recently
12 when I went back to the State Department, I had
13 conversations with the people who were the
14 respective heads of the sanctions programs that were
15 relevant at the relevant time, Rick Newcomb, back --
16 principally back in the '90s, and more recently Dan
17 Fried, which was the name that I couldn't recollect,
18 and he's somebody that I've known for decades and
19 know very well, who is the head of the sanctions
20 office at the State Department more recently, as
21 well as Howie Wachtel, who worked for him at that
22 office.

23 And in the course of those conversations
24 and other conversations, we would talk about the
25 desirability of having the UN and other countries

1 join the United States in sanctions as opposed to
2 unilateral sanctions. So we would discuss the need
3 to have sufficiency of information so that we could
4 secure those kinds of outcomes as I've testified
5 earlier today, in connection with putting together
6 financial packages for crime entities. We
7 discussed -- also discussed in a portion of that the
8 fact that at that time there would have been no
9 basis, most likely, for multilateral designations in
10 that category, because the authority would not have
11 been present in the other countries to follow us in
12 that.

13 So in the course of that, we discussed
14 how we would have to think about that in such places
15 as the UN. And that was a factor in the decision --
16 probably -- it's hard to remember precisely, but
17 that was a factor in our decision not to move
18 forward at that time. It was done in a later
19 administration, adding that category in. So that's
20 the basis for my knowledge.

21 Q. And your knowledge of the UN sanctions
22 process is based on your discussions with US
23 officials, sometime during the time frame between
24 2013 and 2016; is that right?

25 MR. HAEFELE: Objection to form.

1 A. No, I also had such discussions about how
2 we would multilateralize what we were doing in the
3 late '90s, with the UN, but my memory of the
4 discussion in the 1990s in that context about the UN
5 is much less precise. It's a long time ago, and I
6 don't recollect the specifics.

7 MS. PRITSKER: Why don't we take another
8 five-minute break and I'll collect my thoughts and
9 see if I have any other questions for you. Thank
10 you.

11 THE VIDEOGRAPHER: We're going to go
12 off the record at 5:13.

13 (Recess taken, 5:13 p.m. to
14 5:24 p.m. EDT)

15 THE VIDEOGRAPHER: We are back on the
16 record at 5:24 p.m.

17 Q. (BY MS. PRITSKER) Mr. Winer, have you
18 ever argued to the U.S. Treasury Department on
19 behalf of a client that the decision to list your
20 client was made based on wrong information?

21 A. No.

22 MS. PRITSKER: Thank you. I have no
23 further questions at this time. I'm going to
24 reserve the remainder of my time. Thank you
25 so much, Mr. Winer.


1 CERTIFICATE

2 I, DEBRA A. DIBBLE, Registered Diplomate
Reporter, Certified Realtime Reporter, Certified
3 Court Reporter and Notary Public, do hereby certify
that prior to the commencement of the examination,
4 JONATHAN M. WINER, was duly sworn by me to testify
to the truth, the whole truth and nothing but the
5 truth.

6 I DO FURTHER CERTIFY that the foregoing is a
verbatim transcript of the testimony as taken
7 stenographically by and before me at the time, place
and on the date hereinbefore set forth, to the best
8 of my ability.

9 I DO FURTHER CERTIFY that pursuant to FRCP
Rule 30, signature of the witness was not requested
10 by the witness or other party before the conclusion
of the deposition.

11
12 I DO FURTHER CERTIFY that I am neither a
relative nor employee nor attorney nor counsel of
any of the parties to this action, and that I am
13 neither a relative nor employee of such attorney or
counsel, and that I am not financially interested in
14 the
action.

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DEBRA A. DIBBLE, RDR, CRR, CRC
20 NCRA Registered Diplomate Reporter
NCRA Certified Realtime Reporter
21 Certified Court Reporter

22 Dated: 8-5-2021
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November 15, 2021

VIA EMAIL ONLY

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Re: *In re Terrorist Attacks on Sept. 11, 2001, No. 03-MDL-1570 (S.D.N.Y.)*

Dear Counsel:

Please be advised that we have not received confidential designations for the below mentioned depositions. Therefore, the deposition transcripts listed below are considered not confidential.

- John Barron – April 29, 2021
- Jonathan Benthall – July 20, 2021
- Khalid Blankinship – June 22, 2021
- Jacob Vahid Brown – May 25, 2021
- Chas Freeman – April 6, 2021
- Sherman Jackson – June 2, 2021
- Oliver Roy – April 20, 2021
- Mark Sageman – July 1 and 2, 2021
- John Sidel – April 27, 2021
- Jonathan Winer – July 13 and 14, 2021
- Jonathan Marks – July 22, 2021

Sincerely,

Kristie Martello

Kristie Martello
Supervisor of Case Management

KM/ko

cc: MDL-1570 Counsel